



Washington Preschool Program: Increasing Access and Outcomes for Children

Final Recommendations of the
Early Learning Technical Workgroup

November 2011

The 2010 Legislature passed Senate Bill 6759, which required the Office of Superintendent of Public Instruction (OSPI), with assistance and support from the Department of Early Learning (DEL), to convene a technical working group to develop a comprehensive plan for a voluntary program of early learning. SB 6759 required the plan to examine the opportunities and barriers of at least two options: a program of early learning under the program of basic education, and a program of early learning as an entitlement, either statutorily or constitutionally protected.

SB 6759 also directed that the final recommendations of the Early Learning Technical Workgroup include:

- Criteria for eligible children
- Program standards including direct services to be provided, number of hours per school year, teacher qualifications, transportation requirements, and performance measures.
- Criteria for eligible provider -- specifying whether they are approved, certified or licensed by DEL and whether they can be public, private, nonsectarian, or sectarian organizations.
- Governance responsibilities for OSPI and DEL.
- Timeline and funding necessary for implementation.
- The role of the Early Childhood Education and Assistance Program (ECEAP), which is Washington's state-funded preschool program for children from low-income families.

Additionally, SB 6759 specified that the Technical Workgroup must review early learning programs in Washington, including ECEAP and Head Start, and a review and analysis of programs in other states.

This report contains Early Learning Technical Workgroup's recommendations and analysis, as required by SB 6759.

Table of Contents

Executive Summary	1
Full Report	
Establishment of the Early Learning Technical Workgroup	7
The Need for a Solution	8
Considerations: Balancing Educational Gains and Cost	9
A. Improve Educational Gains for Children	9
B. Provide Recommendations That Are Strategic and Prudent	11
Setting the Vision and Goal for the Washington State Preschool Program	11
Analysis of Preschool Programs	12
Anticipated Outcomes of Washington Preschool	14
Policy and Program Design Recommendations	15
A. Open to All 3- and 4-Year-Olds in a Zone Approach: Access	15
B. Provide High Quality and Adequate Intensity: Program Quality and Standards	18
C. Increase Accountability: Performance Goals and Evaluation	20
D. Institute a Mixed Delivery System of High-Quality Providers: Eligible Providers	22
E. Direct DEL to Implement Washington Preschool: Governance	23
F. Create a Single High-Quality Preschool Program: Role of ECEAP	24
G. Make Washington Preschool a Statutory Entitlement at Full Implementation	24
Opportunities and Barriers: Basic Education and Entitlement	24
Timeline: Phase-in Gradually, Implement Fully by Fiscal Year 2024-25	27
Financial Model Assumptions	27
Phase-In	29
Next Steps for Creating the Washington Preschool Program	30
Appendices	301
A. <i>Attorney General Opinion 2009, No. 8</i>	
B. <i>Substitute Senate Bill 6759</i>	
C. <i>Second Substitute House Bill 2731</i>	
D. <i>Differences and similarities between preschool programs that are included as a part of “basic education” versus programs that are an “entitlement”</i>	
E. <i>Summary of high-quality preschool programs in Washington, other states</i>	

Washington Preschool Program: Increasing Access and Outcomes for Children

Final Recommendations of the Early Learning Technical Workgroup

Executive Summary

The following recommendations and analysis constitute the Final Report of the Early Learning Technical Workgroup as required by Senate Bill 6759. Considerable research and extensive deliberation lead the Technical Workgroup to recommend a voluntary high-quality preschool program for all 3- and 4-year-old children in Washington. The Technical Workgroup views these preschool recommendations, referred to as Washington Preschool in this report, as a key element of education reform. A high-quality preschool program with higher intensity than the state-funded Early Childhood Education and Assistance Program (ECEAP) and rigorous accountability is recommended, with the aim of significantly increasing the number of children in all population groups that are prepared for kindergarten, so that K-12 funds can be used more effectively to the advantage of all students.

Our state's 10-year Early Learning Plan includes a strategy to support school readiness for all children by implementing voluntary, universal preschool for all 3- and 4-year-olds (strategy #13). Washington Preschool would build on a history of strong support for preschool from the Governor, the Legislature, and the Quality Education Council.

The Need for a Solution

Education is the fuel of fiercely competitive 21st century economies. By 2018, 67 percent of jobs in Washington will require a college degree or credential, yet our state's high school graduation rates hover in the bottom third nationally. Only 31 percent of 2004 Washington high school graduates had graduated from either a two- or four-year college by September 2010.¹ The picture is far bleaker for students of color, with only 16.2 percent of African Americans, 15.5 percent of Hispanics, and 10.7 percent of Native American students graduating from college. **Clearly something must be done.**

Considerations: Balancing Educational Gains and Cost

In developing these recommendations, the Technical Workgroup was guided by the twin aims of *substantially improving educational attainment for children* and *exercising prudence in light of the economic climate*. The following considerations informed the Technical Workgroup's recommendations.

Two years of preschool are far more effective than one year, in achieving educational outcomes. New Jersey's rigorously evaluated preschool program closed more than 50 percent of children's achievement gap after one year, versus 18 percent for the "no Pre-K group." Two years of participation roughly doubled the gain at second grade on most measures.² Washington needs this boost in educational outcomes.

Preschool can reduce grade-level retention and special education costs-- to schools and to children. Grade level retention was cut in half by second grade for participating 3- and 4- year-olds in New Jersey.³ In Pennsylvania, only 2.45 percent of Pre-K Count children needed school district special education, versus 18 percent for non-participants; 3-year olds who participated for two years showed the greatest gains.⁴ Kindergarten readiness assessments of Washington's Longview School District show that nearly twice as many children (48 percent) who have no preschool require alternative curricula and intensive supports for reading skills as children who participate in community preschool (25 percent). Washington can reduce spending on expensive interventions.

¹ The BERC Group College Tracking Data Services. "Washington State High School Graduates 2004 to present, graduating from college as of September 2010" <http://www.collegetracking.com/reporting/Reports.aspx>

² Frede, E, Kwanghee, J, Barnett, W.S., Figueras, A. "The APPLES Blossom: Abbott Preschool Program Longitudinal Effects Study (PPLES) Preliminary Results through 2nd grade" (June 2009) http://nieer.org/pdf/apples_second_grade_results.pdf

³ Frede, E, Kwanghee, J, Barnett, W.S., Figueras, A. "The APPLES Blossom: Abbott Preschool Program Longitudinal Effects Study (PPLES) Preliminary Results through 2nd grade" (June 2009) http://nieer.org/pdf/apples_second_grade_results.pdf

⁴ Bagnato, S.J., Salaway, J., Suen, H. "Pre-K Counts in Pennsylvania for Youngsters' Early School Success: Authentic Outcomes for an Innovative Prevention and Promotion Initiative" (2009) http://www.uclid.org/uclid/pdfs/ecp_specs_report.pdf

Children of all income levels and abilities benefit from preschool. In Oklahoma's state-funded preschool, children from lower-middle class families (130 percent to 185 percent federal poverty level or FPL) showed a 74 percent increase in letter-word identification and a 37 percent increase in spelling.⁵ However, preschool remains out of reach for many of these working families. At the same time, recent studies reveal that, despite better performance on average, children from middle-income families account for the largest numbers of children failing and dropping out of school nationally. These are problems that quality preschool education can help prevent.⁶ The children of Washington's working families deserve this opportunity.

Washington ranks low in access to preschool. Washington ranks 31st of all states in preschool participation for four-year-olds and 16th in access for 3-year-olds. Oklahoma, ranked first in four-year-old participation, serves 85.8 percent. In comparison, 20.3 percent of Washington 4-year-olds in Washington attend ECEAP, Head Start or special education preschool (on par with Mississippi at 20.2 percent). Vermont (ranked first in three-year-old participation) provides preschool to 29.4% of three-year-old children compared to Washington's 9.5 percent. Washington must do better.

The Vision for the Washington Preschool Program

The Early Learning Technical Workgroup's recommendations are grounded in the vision that: *All children in Washington, whose families so choose, will have access to high-quality preschool learning experiences that prepare them to be ready for kindergarten and ready to perform at or above grade-level by third grade.* For this reason, the Technical Workgroup recommends that Washington set a goal of "*making high-quality, voluntary preschool with a sliding fee scale available to all 3- and 4-year-old children whose families choose it.*"

Additionally, the Technical Workgroup recommends that the preschool program build toward a unified system of early learning and an educational continuum that effectively connects preschool to kindergarten and grades one through three. Toward this end, the Technical Workgroup underscores the importance of services and supports for infants and toddlers and their families and also recommends integrating Washington Preschool with the state's Quality Rating and Improvement System.

Findings from Rigorous Evaluation of Preschool Programs

The Technical Workgroup analyzed results from nine rigorously evaluated preschool programs in 10 states and reviewed cost-benefit data from two studies that have followed children into adulthood. Because the Chicago Child-Parent Centers approach is more similar to the Washington Preschool Program recommendations, the Technical Workgroup believes that Washington Preschool will achieve results similar to those of the Chicago program in the following table.

⁵Gormley, W. Jr. et al., "The Effects of Universal Pre-K on Cognitive Development," *Developmental Psychology* 41, no. 6 (2005); Albert Wat, "The Pre-K Pinch: Early Education and the Middle Class," (Washington, DC: Pre-K Now, 2008). http://www.preknow.org/documents/pre-kpinch_Nov2008_report.pdf.

⁶ Barnett, W.S. "Maximizing Returns from prekindergarten education. In *Education and Economic Development: A Federal Reserve Bank of Cleveland Research Conference*" Cleveland, OH: Federal Reserve Bank of Cleveland. (2004).

Outcomes and Benefit-Cost Analyses of High-Quality Preschool Education

	Chicago Child-Parent Centers	High/Scope Perry Preschool
Year began	1983	1962
Sample size	1,539	123
Age	Ages 3–4	Ages 3–4
Program schedule	Half-day, school year	Half-day, school year
Family Support	Home visits, parent resource program, community mobilization	Weekly home visits
Program Outcomes in comparison to control groups ⁷		
Special Education	14% vs. 25% at age 18	15% vs. 34% at age 15
Grade Retention by Age 15	23% vs. 38%	NA (school policy against retention)
High School Completion	66% vs. 54% at age 22	71% vs. 54% at age 27
Cost to Benefits (2006 Dollars, Discounted at 3%) ⁸		
Cost	\$8,224	\$17,599
K-12 Cost Savings	\$5,989	\$9,787
Crime Cost Savings	\$41,100	\$198,981
Earnings	\$34,123	\$74,878
Total Benefits	\$ 83,511	\$ 284,086
Cost-to-Benefit Ratio	1 to 10	1 to 16

Policy Recommendations

The following recommendations combine gradual ramp-up of a high-quality program with rigorous evaluation and continuous quality improvement to ensure good results.

A. Improve Access: Open to All 3- and 4-Year-Olds in a Zone Approach

The focus on educational attainment, benefit to children of all income levels, Washington's low ranking in access to preschool, and gains from two years of preschool lead the Technical Workgroup to make the following recommendations regarding access to Washington Preschool:

	Current ECEAP	Washington Preschool Recommendation	Difference
Eligible Children	4-year-olds and some 3-year-olds in families up to 110% of FPL* or facing developmental risk	Voluntary for all 3 & 4 year-olds with graduated co-pays for families over 250% FPL	Voluntary for <i>all</i> 3 & 4 year-olds Graduated co-pays
Transportation	Allowed expense, not required.	Limited transportation funds. Allowed expense, not required.	Limited transportation funding

B. Provide High-Quality and Adequate Intensity: Program Quality and Standards

The Technical Workgroup recommends the following quality standards that, implemented in unison, will result in the best outcomes for children per dollar invested. Reducing any of these interdependent elements is likely to reduce effectiveness of the program:

⁷ Galinsky, E. "The Economic Benefits of High-Quality Early Childhood Programs; What Makes the Difference" (February 2006) Families and Work Institute & The Committee for Economic Development

⁸ Barnett, W. J., Yarosz, D. J. "Who Goes to Preschool and Why Does It Matter?" Table 1. November 2007 National Institute for Early Education Research

	Current ECEAP	Washington Preschool Recommendation	Difference
Classroom Hours	320 hours per year, minimum.	450 preschool classroom hours per year, minimum	40% more hours
Teacher Qualifications	Lead teachers: AA or higher degree w/ 30 credits in early childhood education	Lead Teacher- BA Degree in Early Childhood Education or related field, or BA & demonstrated competence	BA Degree- ECE /Related field; or BA degree & demonstrated competence
Class Size and Teacher/Child Ratio	Maximum class size: 20 Teacher: Child Ratio- 1:9 or better	Maximum class size: 18 Teacher: Child Ratio: 1:9 or better, plus, additional staff for high-risk children (below 130% FPL, homeless, in foster care; with an IEP; or ELL)	Smaller class size Added resources for high risk children (Response To Intervention – RTI – approach)
Professional Development	Teachers- 15 hours per year. Lead teachers/ family support specialists - 15 hours per year.	100 approved hours of continuing education study and/or equivalent academic credit (10 quarter hours) for lead teachers every five years.	More hours and more intentional professional development required for lead teachers
Child Health & Family Support Services	For all children, health screening, assistance with access, family support and follow-up.	Initial screening with tiered child health, family support and engagement based on child and family needs	After initial screening, services based on individual child and family needs

C. Increase Accountability: Performance Goals and Evaluation

Based on its research, the Technical Workgroup makes the following recommendations concerning evaluation, performance goals and expected results:

1. Conduct preschool classroom-quality assessment and child outcomes evaluation to inform implementation and provide accountability.
2. Establish performance goals for expected preschool and elementary child outcome results:
 - Children attain age-level skills on preschool assessments linked to the Washington Inventory of Developing Skills (WaKIDS).
 - Kindergarten readiness demonstrated by WaKIDS at kindergarten entry
 - Students at, or above, grade-level by end of third grade (elementary school assessments)
 - Reduced grade level retention and special education by end of third grade (P-20 Database)

D. Institute a Mixed Delivery System of High-Quality Providers: Eligible Providers

The workgroup recommends a mixed delivery system with a wide variety of eligibility providers to support the rich diversity of our state. Research shows that school district and community providers are both effective. This approach allows the most parent choice.

1. Allow a wide array of public and private entities to serve under contract as preschool providers, providing that the preschool program is free from religious instruction, activities or symbolism.
2. Providers should be approved by DEL through an application process and establishment of a contract for services. They must be in good standing with contract requirements, including performance standards, and the applicable state laws and regulations of the state of Washington.

	ECEAP	Washington Preschool Recommendation	Difference
Eligible Providers	Public or private nonsectarian organizations	Public and private entities, including non-profits, for profit organizations and sectarian organizations providing that the program is free from sectarian instruction, activities or symbolism	Open to more types of providers

E. Clarify Governance Responsibilities

The Technical Workgroup recommends that DEL manage Washington Preschool and:

1. Work with OSPI to promote preschool through third grade (P-3) educational alignment.
2. Establish a subcommittee of the Early Learning Advisory Council (ELAC) with appropriate expertise to guide development of the new program.

F. Recommend Role of the ECEAP Program

In the interest of creating a unified early learning system and maximizing effectiveness and efficiencies of current programs, the Workgroup recommends creating a single Washington Preschool program.

1. Merge ECEAP into the new program upon full implementation. ECEAP slots should be converted to the new Washington Preschool Program in graduated steps so that the most vulnerable children can benefit from the higher intensity preschool program.
2. Maintain two side-by-side programs during early implementation.

G. Create Washington Preschool as an Entitlement Program: Analysis of Basic Education and Entitlements

The Workgroup researched legal and programmatic issues related to implementation of the preschool program as a program of basic education or as an entitlement (statutory or constitutional.) Basic education clearly provides the most protection of funding. However, the Workgroup believes that, at this time, the associated governance requirements and political challenges would put the focus on legal requirements and politics rather than on the impact of preschool. For this reason, the Workgroup recommends that Washington Preschool become a statutory entitlement consistent with House Bill 2731, passed in 2010.

1. When full implementation is achieved, any eligible child shall be entitled to be enrollment in the program.

H. Phase-In Gradually, Implement Fully by Fiscal Year 2024-25

The Technical Workgroup believes that voluntary high-quality preschool and full-day kindergarten are equally important for improving educational achievement gains. This, combined with the need for prudence in the current economic climate, leads the Workgroup to recommend that Washington:

1. Link implementation of Washington Preschool Program to state-funded full-day kindergarten;
2. Phase the preschool program in gradually so that it reaches full implementation in school year 2024-25.

Program Recommendations and Financial Projections

The research-based program quality elements used to create the above policy recommendations also informed the program recommendations (including mixed classrooms, administration, revenue and funding assumptions) and financial model. Recommendations for program implementation include:

1. Move towards a **single Washington State Preschool** program that encompasses the current ECEAP and special education preschool programs. Gradually convert existing ECEAP slots to the new preschool program;
2. Establish **inclusive, mixed-income classrooms** with differentiated levels of teaching and family support resources. Simply put, children who need the most will get the teaching and support they need. In K-12 education, this is known as Response to Intervention (RTI);
3. Institute **graduated co-pays** for families with incomes above 250 percent of federal poverty level to offset state costs, allowing limited state dollars to go further.

Financial Model

Cost projections are based on the following assumptions:

Participation Estimate. At full implementation, the Technical Workgroup estimates that families of 62 percent of 4-year-olds and 33 percent of 3-year-olds will choose to participate in the new preschool program (83,785 of approximately 176,190 preschoolers in Washington). This represents 48 percent of the state's 3- and 4-year-olds.

New and Existing Slots. Of these 83,785 noted above, 52,460 will be served in new preschool slots with the remaining preschoolers served by slots currently available in ECEAP, Head Start, American Indian and Alaska Native Head Start, Migrant/Seasonal Head Start and special education preschool.

Differentiated Slot Cost. As shown in the figure to the right, cost per slot will vary due to differing levels of subsidization based on family income and developmental risk factors. It is recommended that parent co-payments (for families over 250 percent FPL) make up the difference between full cost and state share. As illustrated in slot costs, additional increments of staff resources will be provided for children who: a) are very low-income or are homeless or in foster care b) are placed in an Individualized Education Program; or c) are an English Language Learner.

Per Child Cost by family Income and Risk Factors		
Per Child	State share	Family Income & Risk Factors
\$8,413	\$8,413	≤130% FPL/foster/homeless
\$7,466	\$7,466	130.1 to 185% FPL
\$7,237	\$7,237	185.1-200% FPL
\$7,099	\$7,099	200.1-250% FPL
\$7,008	\$6,558	250.1-300% FPL
\$6,033	\$5,133	300.1-400% FPL
\$5,984	\$4,184	400.1-500% FPL
\$5,640	\$2,040	>500% FPL
\$1,951	\$1,951	Additional per child with IEP
\$1,338	\$1,338	Additional per ELL child

Phase-In

To allow for a reasonable start-up scale and to support development of the P-3 continuum, the Technical Workgroup recommends the following.

1. Begin the new program with 936 3- and 4-year-olds who live in elementary school attendance areas where there is full-day kindergarten and lower than average access to Head Start and ECEAP;
2. Sites should be selected through a competitive process.

The steps and funding required for this first phase are:

Year	Actions	Item	Cost
2012-13	DEL: Develop program standards, evaluation plan and data systems. Complete facilities survey. Conduct competitive statewide RFP for 936 slots/10-15 preschool providers in full-day kindergarten elementary school attendance areas underserved by current publicly-funded programs	1 FTE + related goods, services, travel	\$98,267
		Facilities Survey	20,000
		Total	\$118,267
2013-14	DEL: Develop evaluation plan and data systems, train providers. Preschool Providers: Hire and train site supervisory staff, prepare facilities and classrooms (~26), hire program staff and enroll children	1 FTE + related goods, services & travel	\$98,267
		Facilities Survey	500,000
		Program Development	350,000
		Total	\$948,267
2014-15	Begin Washington Preschool for 936 children at 10-15 sites across Washington. Begin program evaluation.	PreK-Services	\$4,540,623
		Equipment/materials	195,000
		Program Evaluation	290,460
		Total	\$5,026,083

Next Steps

- Request appropriation of \$118,267 for 2012-13 and prepare for implementations as noted above.
- Complete necessary policy work, including specifying which degrees are early childhood-related degrees, conducting the preschool facilities survey, and analyzing transportation needs.

Washington Preschool Program: Increasing Access and Outcomes for Children Full Report

Establishment of the Early Learning Technical Workgroup

The 2010 Legislature passed Senate Bill 6759, which required the Office of Superintendent of Public Instruction (OSPI), with assistance and support from the Department of Early Learning (DEL), to convene a technical working group to develop a comprehensive plan for a voluntary program of early learning. SB 6759 (Appendix B) required the plan to examine the opportunities and barriers of at least two options: a program of early learning under the program of basic education, and a program of early learning as an entitlement, either statutorily or constitutionally protected.

This *Final Report* and recommendations of the Early Learning Technical Workgroup builds upon the 2010 recommendation from the 2010 Quality Education Council (QEC) to fund preschool for at-risk children as part of Washington's definition of basic education, and is aligned with the Washington *Early Learning Plan* strategy to:

Create a voluntary universal preschool program for 3- and 4-year-olds as part of basic education; phase-in to serve highest poverty communities first in coordination with the phase-in of all-day kindergarten, serving at-risk 4-year-olds first and then at-risk 3-year-olds next; implement universal pre-kindergarten through a mixed-delivery system—through a variety of settings—to draw on the strengths of diverse families, communities, and service providers.

This report also builds on 2010 House Bill 2731 (Appendix C), which created comprehensive, voluntary preschool opportunities for educationally at-risk 3- and 4-year-olds with full statewide implementation by 2018-19, at which time any eligible child shall be entitled to be enrolled in the program.

SB 6759 required the Technical Workgroup be composed of: one representative each from DEL, OSPI, Thrive by Five Washington, and the Office of the Attorney General; two members of the Early Learning Advisory Council (ELAC); and, additional stakeholders with expertise in early learning to be appointed by ELAC.

Consistent with these requirements, Technical Workgroup members are listed below. Where organizational representatives changed over the course of the Technical Workgroup's deliberations, both representatives are listed.

Name	Organization	Title
Senator Curtis King	State Senate and ELAC Member	Senator, 14 th Legislative District, Yakima
Representative Roger Goodman	House of Representatives and ELAC Member	Representative 45 th Legislative District, Kirkland
Bonnie Beukema, Co-Chair	Department of Early Learning	Assistant Director Outcomes & Accountability
Bob Butts, Co-Chair	Office of Superintendent of Public Instruction	Assistant Superintendent Policy and Planning
John Bancroft	Columbia City Consulting	Consultant
Molly Boyajan and Lauren Hipp	Thrive by Five Washington	Director of Policy and Community Relations, Community Partnerships Manager
Sally Brownfield	Squaxin Island Tribe	Education Director
Janice Deguchi	Denise Louie Education Center	Executive Director
Judy Jennings and Suzie Hanson	Washington Federation of Independent Schools	Executive Director, Executive Director
Joyce Kilmer	Department of Early Learning	ECEAP Administrator
Hannah Lidman	League of Education Voters	Legislative Director
Lorena Lowell	Bambinos International Learning Center	Founder and CEO
Mary Carr Wilt	Longview School District	Director, Early Learning and Title I
Todd McNerney	Parent	Member of DEL Parent Advisory Group
Paula Quinn	Association of Washington School Principals	Director of Elementary Programs
Joel Ryan	Washington Association of Head Start & ECEAP	Executive Director
Dave Stolier	Office of the Attorney General	Senior Assistant Attorney General

Bea Kelleigh of Dovetailing provided facilitation and drafted the final recommendations report.

SB 6759 directed that the final recommendations of the Early Learning Technical Workgroup include:

- Criteria for eligible children
- Program standards including direct services to be provided, number of hours per school year, teacher qualifications, transportation requirements, and performance measures.
- Criteria for eligible provider -- specifying whether they are approved, certified or licensed by DEL and whether they can be public, private, nonsectarian, or sectarian organizations.
- Governance responsibilities for OSPI and DEL.
- Timeline and funding necessary for implementation.
- The role of the Early Childhood Education and Assistance Program (ECEAP), which is Washington's state-funded preschool program for children from low-income families.

Additionally, SB 6759 specified that the Technical Workgroup must review early learning programs in Washington, including ECEAP and Head Start, and a review and analysis of programs in other states.

This report, which contains the recommendations and analysis required by SB 6759, is the result of the Early Learning Technical Workgroup's extensive deliberations and research on state preschool programs, including the program standards and duration required to produce significant life-long educational gains for children and for the State of Washington.

The Need for a Solution

Twenty-first century economies are dynamic, creative, diverse, complex, fast-paced—and global. Market place competition is fierce. Businesses innovate. Technology advances. Education is the fuel of the 21st century workforce.

By 2018, 67 percent of jobs in Washington will require a college degree or credential. On average, only 31 percent of 2004 high school graduates had graduated from either a two- or four-year college by September 2010.⁹ The picture is far bleaker for students of color with only 16.2 percent of African Americans, 15.5 percent of Hispanics, and 10.7% of Native American students graduating from college. **Clearly something must be done.**

Ensuring that each child has access to high-quality preschool is a key component for success in kindergarten and beyond. Research shows that children who attend high-quality preschool perform better in school and throughout life. They have more advanced language and math skills, and enter kindergarten with the skills and behaviors necessary to succeed in a classroom environment.

For decades, policy makers and school reform leaders have been working to “fix” K-12 education at tremendous expense and with limited success. Two common flaws in those efforts have been a focus on closing student achievement gaps after they surface and an indifference to preschool, despite preschool's demonstrated ability to change the trajectory of children's learning. Reforms that rely on children playing catch-up do not provide a long-term strategy for success. Rather, we must redirect our attention and our resources toward efforts to replicate proven early education programs and maximize results with complementary reforms.

Achieving our state's educational goals requires a clear strategy to prioritize and protect investments in proven programs, like high-quality preschool. The Technical Workgroup builds on a history of strong support from the Governor, the Legislature, the Superintendent of Public Instruction, the Department of Early Learning and the Quality Education Council. The Technical Workgroup's goal has been to establish a clear, actionable strategy in Washington that informs the implementation of voluntary, high-quality preschool opportunities for 3- and 4-year-old children in Washington.

⁹ The BERC Group College Tracking Data Services. "Washington State High School Graduates 2004 to present, graduating from college as of September 2010" <http://www.college tracking.com/reporting/Reports.aspx>

In creating the recommendations that follow, the Technical Workgroup researched and deliberated on a host of key topics including:

- The program qualities and results of state preschool models that have undergone rigorous evaluation. (New Jersey, Georgia, Florida and Oklahoma).
- The Early Childhood Education and Assistance Program (ECEAP) and Head Start programs.
- Prudent cost projections and phase-in strategies.
- Legal and programmatic implications of basic education and entitlement programs.
- House Bill 2731, passed by the 2010 Legislature, which created an early learning entitlement program for educationally at-risk children.
- K-12 funding allocation systems.
- Next steps and policy issues for further consideration.

Considerations: Balancing Educational Gains and Cost

Throughout, the twin goals of “improving educational attainment for children” and “taking judicious steps in light of scarce public funds” have guided the Technical Workgroup. The following considerations informed the Technical Workgroup’s recommendations, providing an understanding of the research and thinking that underpins the recommendations.

A. Improve Educational Gains for Children

- **Two years of preschool are more effective in achieving educational outcomes.**
Children with two years of preschool make far greater gains than those with one year of preschool. A rigorous evaluation of New Jersey’s Preschool program found that the Pre-K group closed more than 50 percent of the achievement gap, versus 18 percent for the “no Pre-K group” at the end of the kindergarten year. Two years of program participation roughly doubled the gain at second grade on most measures.¹⁰ Washington needs this boost in educational outcomes.
- **Preschool produces long-term education gains.** Two studies of preschool have followed children into adulthood. The High Scope Perry Preschool and the Chicago Child-Parent Centers both found substantial gains in high school graduation of study participants compared to the control groups. Perry Preschool increased high school graduation from 54 percent to 71 percent. Chicago Child Parent Centers increased high school graduation rates from 54 percent to 66 percent. Each also resulted in K-12 cost savings, and increases in lifetime earnings. (See Outcomes and Benefit-Cost Analysis on Page 14.)
- **Preschool can reduce grade-level retention and special education costs -- to schools and to children.**
In New Jersey, grade retention was cut in half by second grade for participating 3- and 4-year-olds¹¹. In Pennsylvania, historical school district special education placement rates were reduced from 18 percent to 2.45 percent for PreK Counts children; 3-year olds who participated for two years showed the greatest gains.¹²

Each child qualifying for special education in Washington is funded at an average of \$5,400 per year, in addition to the basic per student allocation. As of May 2011, 135,852¹³ (13%) Washington students were receiving special education services. Every one percent reduction in special education placements (1,359

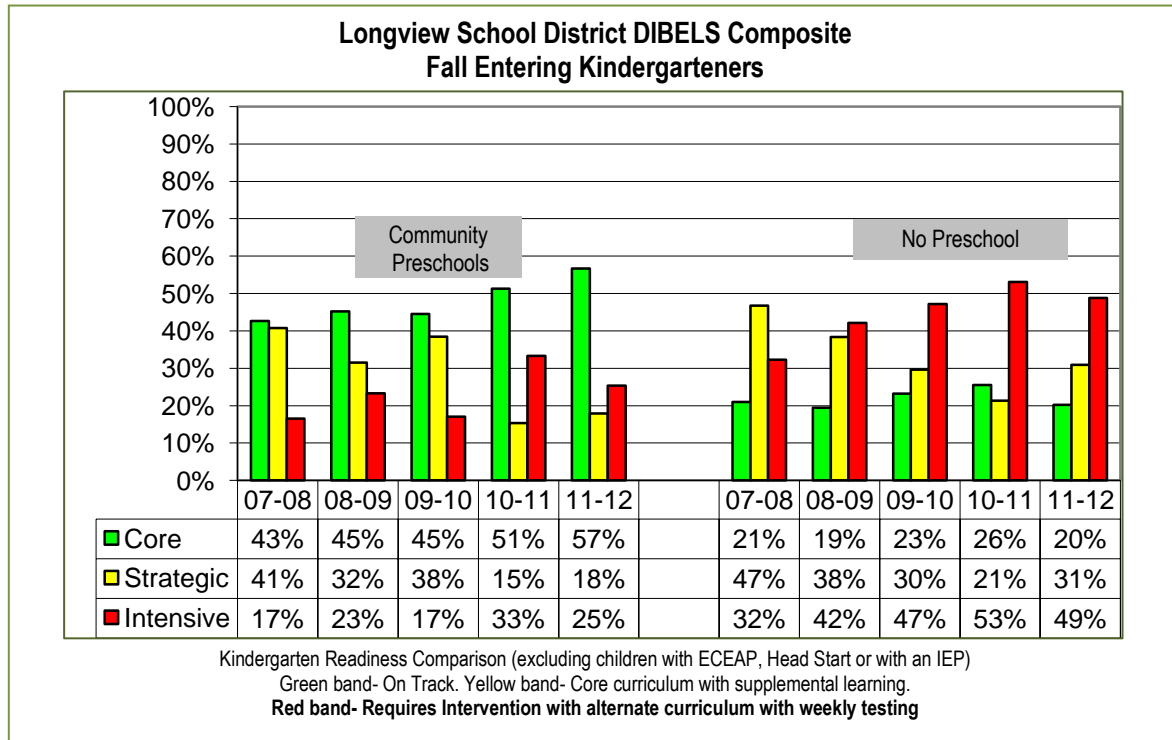
¹⁰ Frede, E, Kwanghee, J, Barnett, W.S., Figueras, A. “The APPLES Blossom: Abbott Preschool Program Longitudinal Effects Study (APPLES) Preliminary Results through 2nd grade” (June 2009) http://nieer.org/pdf/apples_second_grade_results.pdf

¹¹ Frede, E, Kwanghee, J, Barnett, W.S., Figueras, A. “The APPLES Blossom: Abbott Preschool Program Longitudinal Effects Study (APPLES) Preliminary Results through 2nd grade” (June 2009) http://nieer.org/pdf/apples_second_grade_results.pdf

¹² Bagnato, S.J., Salaway, J., Suen, H. “Pre-K Counts in Pennsylvania for Youngsters’ Early School Success: Authentic Outcomes for an Innovative Prevention and Promotion Initiative” (2009) http://www.uclid.org/uclid/pdfs/ecp_specs_report.pdf

¹³ Washington State Report Card. <http://reportcard.ospi.k12.wa.us/summary.aspx?year=2010-11>

students) will save the state approximately \$7.3 million per year. To illustrate the magnitude of potential savings, cutting special education placements in half, like New Jersey, would save \$366 million each year.



Data from the Longview School District provides a dramatic example of the difference in school readiness between children with and without preschool. The district's 2011-12 Dynamic Indicators of Basic Early Literacy Skills (DIBELS) assessment of entering kindergarteners found that 48 percent of children who had no preschool were in the "red band," compared to 25 percent of those who attended community preschool. Children who are in the red band require intervention with alternative curriculum and intensive supports for reading. (These data do not include ECEAP or Head Start preschools. Washington does not license preschools operating less than four hours per day and community preschool quality ranges from poor to high.) Consistent high-quality preschool can be expected to produce even better results. **Washington can reduce spending on expensive interventions.**

➤ **Children of all income levels and abilities benefit from preschool.**

Children from families with income above the level of ECEAP eligibility (130 percent to 185 percent of federal poverty level or FPL) who participated in Oklahoma's preschool program increased letter-word identification by 74 percent and spelling by 37 percent.¹⁴ However, preschool remains out of reach for these working poor families. At the same time, recent studies reveal that, despite better performance on average, children from middle-income families account for the largest number of students who fail or dropout nationally, problems that quality preschool education can help prevent.¹⁵ **The children of Washington's working families deserve this opportunity.**

➤ **Washington ranks low in access to preschool.**

¹⁴Gormley, W. Jr. et al., "The Effects of Universal Pre-K on Cognitive Development," Developmental Psychology 41, no. 6 (2005); Albert Wat, "The Pre-K Pinch: Early Education and the Middle Class," (Washington, DC: Pre-K Now, 2008). http://www.preknow.org/documents/pre-kpinch_Nov2008_report.pdf.

¹⁵ Barnett, W.S. "Maximizing Returns from prekindergarten education. In Education and Economic Development: A Federal Reserve Bank of Cleveland Research Conference" Cleveland, OH: Federal Reserve Bank of Cleveland. (2004).

Washington ranks 31st of all states in preschool participation for 4-year-olds and 16th in access for 3-year-olds. Oklahoma, ranked first in four-year-old participation, serves 85.8 percent. In comparison, 20.3 percent of Washington 4-year-olds attend ECEAP, Head Start or special education preschool (on par with Mississippi at 20.2 percent). Vermont (ranked first in 3-year-old participation) provides preschool to 29.4 percent of 3-year-old children, compared to Washington's 9.5 percent. **Washington must do better.**

B. Provide Recommendations That Are Strategic and Prudent

➤ **Balanced Recommendations**

Research shows that high-quality full-day preschool programs result in the greatest gains for children. However, research on Oklahoma's universally-available, half-day preschool program showed children gained seven to eight months in letter-word identification, six to seven months in spelling, and four months in applied problems (pre-math), above and beyond the gains of aging or maturation.¹⁶ This suggests that half-day preschool is a wise and prudent first step. This is reflected in the Technical Workgroup's recommendations.

➤ **Higher Quality and Greater Accountability**

These recommendations contain rigorous new accountability measures, based on national best practices to ensure appropriate implementation and allow regular analysis of results and any necessary course corrections. The *Phase-In Plan* combines a gradual ramp-up with rigorous evaluation and continuous quality improvement to ensure results.

Setting the Vision and Goal for the Washington State Preschool Program

Research on the enormous contribution of preschool to a young child's long-term development and academic success has grown only more compelling since the 2005 Washington Learns Taskforce made recommendations for a "world-class learner focused seamless education system" – beginning with early learning.

For these reasons, the Technical Workgroup's recommendations are grounded in the vision that:

All children in Washington, whose families so choose, will have access to high-quality preschool learning experiences that prepare them to be ready for kindergarten and ready to perform at or above grade-level by third grade.

This vision reflects the substantial body of evidence that early investment in preschool can improve short-term performance and longer-term educational success. For this reason, the Technical Workgroup recommends that Washington set a goal of "*making high-quality, voluntary preschool available on a sliding scale to all three- and four-year-old children whose families choose it.*"

Additionally, the Technical Workgroup recommends that the preschool program build toward a unified system of early learning and an educational continuum that effectively connects preschool to full-day kindergarten and to grades one to three. Toward this end, the Technical Workgroup underscores the importance of services and supports for infants and toddlers and their families. It also recommends integrating the preschool program with the state's quality rating and improvement system, the state's early learning quality framework. Preschool is vitally important for improving educational outcomes, and is even more potent when aligned with a strong system of supports for infants and toddlers and with K-3 education. The challenge of creating this continuum of early education is great, but the payoffs are enormous.

¹⁶ Gormley, W.T., Gayer, T., Phillips, D., Dawson, B. "The Effects of Universal PreK on Cognitive Development" (2005)

Analysis of Preschool Programs

Preschool programs around the country employ different levels of intensity, quality and comprehensiveness, which impact educational effectiveness and outcomes. The most effective programs include three basic elements:

- **Early Learning. All effective programs provide early learning.** In high-quality programs, early learning experiences are designed to fit each child's individual needs and developmental level. The interactions between teachers and children, which enrich children's learning and development, are the core of preschool programs. Effective programs provide developmental screenings to identify areas of concern (e.g., a possible delay or disability). They also have teachers regularly assess children's progress in cognitive, language, social-emotional and physical development, using results to adjust curriculum and instruction for individual children and whole classrooms.
- **Health.** Since children cannot learn optimally if they are unhealthy, or have vision or hearing problems, effective programs typically include health services such as screenings to check vision, hearing, height and weight. Many programs also help families access preventative medical and dental treatment and provide case management and follow up on diagnosed concerns.
- **Family Engagement and Support.** Since parents are a child's first and most important teacher, programs should involve parents and incorporate home language and culture. Successful programs include a range of activities to engage parents in the classroom. They also focus on fostering the skills and leadership needed for parents to be active partners in, and advocates for, their children's education from preschool through college. Family support services help parents to assess priorities and set and meet family goals regarding income sufficiency, education, housing and employment, as well as connect families with resources for issues such as hunger, domestic violence and chemical dependency.

Findings from Rigorous Evaluation of Preschool Programs

In developing these recommendations, the Technical Workgroup focused on state programs that have undergone rigorous evaluation and on the Head Start and ECEAP programs. An analysis of the program standards for Head Start and ECEAP and of other state preschool programs that meet seven or more of the quality standards of high-quality preschool can be found in Appendix E. This appendix also includes state funding sources used to implement the programs. A growing number of rigorous studies find substantial positive short- and long-term effects of state preschool on children's learning, development, and school success. Results from nine such studies in 10 states are summarized below. This evidence adds to the much larger body of evidence on the general effects of early learning.¹⁷

Evidence of Preschool Effectiveness Grows¹⁸

State	Evaluation
Five-States¹⁹	The National Institute for Early Learning Research (NIEER) used a regression discontinuity design to evaluate the effects of state-funded pre-K programs in five states (MI, OK, NJ, SC, & WV). Programs had positive effects on learning for language, literacy and math. Results varied across states, but all states' programs had significant impacts.
California²⁰	A study of California's state preschool program by researchers at NIEER and UCLA found that state-funded pre-K in public schools produced large gains in language, literacy, and mathematics at kindergarten entry.

¹⁷ Camilli, G., Vargas, S., Ryan, S., & Barnett, W.S. (2010). "Meta-analysis of the effects of early education interventions on cognitive and social development" Teachers College Record, 112(3), 579-620.

¹⁸ Barnett, S.W. et al. Evidence of Effectiveness Grows. *The State of Preschool 2010*. NIEER

¹⁹ Wong, V.C., Cook, T.D., Barnett, W.S., & Jung, K. (2008). "An effectiveness-based evaluation of five state pre-kindergarten programs" Journal of Policy Analysis and Management, 27(1), 122-154. Available at:

<http://www.sesp.northwestern.edu/docs/publications/16129652354859671644dba.pdf>

²⁰ Barnett, W.S., Howes, C., & Jung, K. (2008). "California's state preschool program: Quality and effects on children's cognitive abilities at kindergarten entry" New Brunswick, NJ: National Institute for Early Education Research.

State	Evaluation
Louisiana ²¹	An evaluation of the LA4 program, using a multi-year design with four cohorts, found strong gains in learning for language, literacy, and mathematics. Gains continued through at least kindergarten. The study also found substantial decreases in grade repetition and special education.
Michigan ²²	The High Scope Educational Research Foundation longitudinal study of Michigan's School Readiness Program found that it increased "passing" rates on the state's literacy and mathematics tests, and decreased grade repetition at fourth- and eighth-grade follow-up.
New Jersey ²³	Multiple studies found positive effects on language, literacy, and mathematics learning. A longitudinal follow-up study found that learning gains from the Abbott Pre-K program were sustained through second grade (the most recent follow-up), and grade repetition was reduced. The effects of two years of participation were twice as large as the effects of one year for most outcome measures.
New Mexico ²⁴	Statewide evaluations found positive effects on language, literacy, and mathematics at kindergarten entry across multiple years of the program.
North Carolina ²⁵	An evaluation of the More at Four (MAF) pre-K program by researchers at the University of North Carolina found that MAF increased reading and mathematics achievement in third-grade for children from low-income families, the primary group eligible for the program.
Oklahoma ²⁶	Georgetown University studies of the pre-K program in Tulsa found positive effects on literacy and mathematics learning and on socio-emotional development for all children. Effects were somewhat larger for the most disadvantaged children, but were substantial for children from every background, including children who are not economically disadvantaged.
Tennessee ²⁷	Two studies (one, a randomized trial, the other a regression discontinuity study) conducted by Vanderbilt University found substantial positive effects of Tennessee's preschool program on language, literacy, and mathematics tests after one year of pre-K.

Outcomes and Benefit-Cost Analyses of High-Quality Preschool Education

Only two preschool programs have long-standing research that followed participants into adulthood. As shown in the following table, both show extraordinary benefits relative to their cost. Because the Chicago Child-Parent Centers approach is more similar to the program recommendations contained in this report, the Technical Workgroup believes that the outcomes for children who participate in Washington Preschool will approach the benefits found for the Chicago program in the following table. Outcomes include substantial improvements in high school graduation and in reduced special education and grade level retention.

²¹ Ramey, C. T., Landesman Ramsey, S., & Stokes, B. R. (2009). "Research evidence about program dosage and student achievement: Effective public prekindergarten programs in Maryland and Louisiana" In R. C. Pianta & C. Howes (Eds.), *The Promise of Pre-K* (pp. 79-105). Baltimore, MD: Paul H. Brooks Publishing Co.

²² Malofeeva, E., Daniel-Echol, M., & Xiang, Zongping. "Findings from the Michigan School Readiness Program 6 to 8 Follow-up Study" (2007) Ypsilanti, MI: High Scope Educational Research Foundation.

²³ Frede, E., Jung, K., Barnett, W. S., & Figueras, A. (2009). *The APPLES Blossom: Abbott Preschool Program Longitudinal Effects Study (APPLES), Preliminary Results through 2nd Grade*. New Brunswick, NJ: National Institute for Early Education Research, Rutgers University. Available at: http://nieer.org/pdf/apples_second_grade_results.pdf

²⁴ Hustedt, J. T., Barnett, W. S., Jung, K., & Goetze, L.D. (2009). *The New Mexico PreK Evaluation: results from the initial four years of a new state preschool initiative. Final Report*. New Brunswick, NJ: National Institute for Early Education Research. Available at: <http://nieer.org/pdf/new-mexico-initial-4-years.pdf>

²⁵ Peisner-Feinberg, E.S., & Schaaf, J.M. (2010). *Long-term effects of the North Carolina More at Four Pre-Kindergarten Program: Children's reading and math skills at third grade*. Chapel Hill: Frank Porter Graham Child Development Institute, University of North Carolina.

²⁶ Gormley, W. T., Jr., Phillips, D., & Gayer, T. (2008). *Preschool programs can boost school readiness*. Science, 320, 1723-1724. Available at: <http://nieer.org/resources/research/Gormley062708.pdf>. Gormley, W.T., Phillips, D.A., Newmark, K., Perper, K., & Adelstein, S. (2009). "Social-emotional effects of early childhood education programs in Tulsa," Working Paper 15. CROCUS. Georgetown University.

²⁷ Lipsey, M., Farran, D., Hofer, K., Bilbrey, C., & Dong, N. "The effects of the Tennessee Voluntary Pre-Kindergarten Program: Initial Results" (2011) Peabody Research Institute, Vanderbilt University.

Outcomes and Benefit-Cost Analyses of High-Quality Preschool Education

	Chicago Child-Parent Centers	High/Scope Perry Preschool
Year began	1983	1962
Location	Chicago, IL	Ypsilanti, MI
Sample size	1,539	123
Research design	Matched neighborhoods	Randomized trial
Age	Ages 3–4	Ages 3–4
Program schedule	Half-day, school year	Half-day, school year
Family Support	Home visits, parent resource program, community mobilization	Weekly home visits
Program Outcomes in comparison to control groups ²⁸		
Special Education	14% vs. 25% at age 18	15% vs. 34% at age 15
Grade Retention by Age 15	23% vs. 38%	NA (school policy against retention)
High School Completion	66% vs. 54% at age 22	71% vs. 54% at age 27
Cost to Benefits (2006 Dollars, Discounted at 3%) ²⁹		
Cost	\$8,224	\$17,599
K-12 Cost Savings	\$5,989	\$9,787
Post-Secondary Ed. Cost	-\$685	-\$1,497
Crime Cost Savings	\$41,100	\$198,981
Earnings	\$34,123	\$74,878
Total Benefits	\$ 83,511	\$ 284,086
Cost-to-Benefit Ratio	1:10	1:16

Anticipated Outcomes of Washington Preschool

As described above, the evaluation of large-scale, high-quality preschool programs shows that many states realize impressive gains in educational achievement and reductions in expensive grade-level retention and special education³⁰. Based on the experience of other states, the Technical Workgroup believes that the implementation of the recommendations in this report will achieve six key outcomes:

1. Increased kindergarten readiness
2. Increased proportion of children in all population groups performing at or above grade level by third grade
3. Reduced grade level retention
4. Reduced need for special education
5. Fewer high school dropouts
6. More successful adults

²⁸ Galinsky, E. "The Economic Benefits of High-Quality Early Childhood Programs; What Makes the Difference" (February 2006) Families and Work Institute & The Committee for Economic Development

²⁹ Barnett, W. J, Yarosz, D, J. "Who Goes to Preschool and Why Does It Matter?" Table 1. November 2007 National Institute for Early Education Research

³⁰ Barnett, W. S. "Preschool Education and its Lasting Effects: Research and Policy Implications" (September 2008)

<http://nieer.org/resources/research/PreschoolLastingEffects.pdf>. http://www.ced.org/images/library/reports/education/early_education/report_prek_galinsky.pdf

Policy and Program Design Recommendations

Guided by the twin considerations of improving educational achievement and judicious use of public funds, as noted in Section III, the Technical Workgroup makes the following recommendations. The Technical Workgroup believes implementation of these interlocking recommendations will allow Washington to realize the outcomes to which we aspire. These recommendations are presented in six sections:

- A. Improve Access: Open to 3- and 4-Year-Olds in Attendance Areas with Graduated Co-Pays
- B. Provide High-Quality and Adequate Intensity: Program Quality and Standards
- C. Increase Accountability: Performance Measures and Evaluation
- D. Institute a Mixed Delivery System of High-Quality Providers: Eligible Providers
- E. Direct DEL to Manage the Program and Create an Advisory Committee: Governance Responsibilities
- F. Create a Single High-Quality Preschool Program: Role of ECEAP

Each section includes recommendations and the rationale for the recommendations. The first two sections include a comparison between the current ECEAP standards and recommended Washington Preschool standards.

Preschool in Washington is provided by an array of private schools, private nonprofit agencies and public agencies such as schools, educational service districts, local governments and child care providers. The recommendations contained in this report are intended to guide the publicly funded Washington Preschool program and the public and private agencies that contract with the state to provide this program. Even at full implementation, many families will choose private preschools. The combination of publicly and privately funded preschool options will offer families at every income level access to voluntary preschool while preserving parent choice.

A. Open to All 3- and 4-Year-Olds in a Zone Approach: Access

The following recommendation is based the benefits of preschool to children of all income levels, the far greater gains children derive from two years of participation, and Washington's ranking as 31st among states in access to preschool for 4-year-olds:

Access Recommendations

1. Open to 3- and 4-Year-Olds. Make high-quality preschool available, on a voluntary basis, to all 3- and 4-year-olds, with graduated co-pays for families with incomes above 250% of the Federal Poverty Level (FPL)*.
2. Vulnerable Children. During phase-in, when a portion of slots are held for vulnerable children, use a research-based prioritization point system developed by DEL to determine eligibility. Include children qualifying for special education as eligible.
3. Eligibility by zone during phase-in. During phase-in, use elementary school attendance areas to define eligibility zones, starting first in attendance areas of schools with full day kindergarten and relatively lower access to ECEAP or Head Start. At scale, use the school district as the eligibility area.
4. Transportation - Reduce barriers to participation by providing limited transportation for isolated families and in cases of hardship. Transportation is an allowed, but not required, expense.

*(250% of FPL for 2011 is \$46,325 for a family of three.)

Washington Preschool and ECEAP Access Comparison

For reference, the chart below provides a comparison of ECEAP and the recommended Washington Preschool.

	Current ECEAP	Washington Preschool Recommendation	Difference
Eligible Children	4-year-olds and some 3-year-olds in families up to 110% of FPL or facing developmental risk	Voluntary for all 3 & 4 year-olds with graduated co-pays for families over 250% FPL	Voluntary for <i>all</i> 3 & 4 year-olds Graduated co-pays
Transportation	Allowed expense, not required.	Limited transportation funds. Allowed expense, not required.	Limited transportation funding

Rationale for the Access Recommendations

Two Years of Preschool Provides Far Greater Gains. As noted in the *Considerations* section, the gains from two years of preschool are great enough to change the trajectory of a child's life. This fact, and the knowledge that substantial savings are expected due to reduced grade retention and special education costs, strengthens the importance of this policy choice. In New Jersey, grade retention was cut in half by second grade for children who participated in two years of preschool as 3- and 4-year-olds³¹. In Pennsylvania, historical school district special education placement rates were reduced from 18 percent to 2.45 percent for PreK Counts children; those who participated for two years showed the greatest gains.³²

All Children Benefit. The Early Learning Technical Workgroup's recommendations are modeled on the New Jersey and Oklahoma state program's provision of services to all children in a community. New Jersey's Abbott program, which provides preschool to all 3- and 4-year-olds within the Abbott districts, is realizing some of the best results in the nation as noted above. There are several reasons for choosing this policy option:

- **Benefits of preschool do not stop at the poverty line.** Children from middle-income families account for the largest numbers of children failing and dropping out of school nationally, problems that a high-quality preschool education can help prevent.³³ These children improve significantly in key measures such as early literacy and math when given early learning opportunities³⁴.
- **Working poor and middle-class families need access.** Some very low-income families receive public subsidies for preschool. High-income families can afford preschool. But the working poor are struggle to provide basic necessities and cannot afford the additional annual preschool cost of \$6,662 per year³⁵. In Washington, it is estimated that a working family must earn more than three times the ECEAP income eligibility level, which was \$24,585 for a family of four in 2011, to afford an average preschool program. This difference between eligibility for means-tested preschool and the ability to afford a private preschool program is often called the preschool pinch. Washington's preschool pinch was ranked worst in the nation in a 2008 PreK-Now report.³⁶ This is

The Preschool Pinch: Early Education & the Middle Class

Figure 3:

Estimates of Children in Middle-Class Families Struggling to Afford Early Education and Care



³¹ Frede, E, Kwanghee, J, Barnett, W.S., Figueras, A. "The APPLES Blossom: Abbott Preschool Program Longitudinal Effects Study (PPLES) Preliminary Results through 2nd grade" (June 2009) http://nieer.org/pdf/apples_second_grade_results.pdf

³² Bagnato, S.J., Salaway, J., Suen, H. "Pre-K Counts in Pennsylvania for Youngsters' Early School Success: Authentic Outcomes for an Innovative Prevention and Promotion Initiative" (2009) http://www.uclid.org/uclid/pdfs/ecp_specs_report.pdf

³³ Barnett, W.S. "Maximizing Returns from Prekindergarten Education" In Education and Economic Development: A Federal Reserve Bank of Cleveland Research Conference. Cleveland, OH: Federal Reserve Bank of Cleveland. (2004)

³⁴ Gormley, W. Jr. et al., "The Effects of Universal Pre-K on Cognitive Development," Developmental Psychology 41, no. 6 (2005); Albert Wat, "The Pre-K Pinch: Early Education and the Middle Class," (Washington, DC: Pre-K Now, 2008). http://www.preknow.org/documents/pre-kpinch_Nov2008_report.pdf.

³⁵ Based on the 2011 Washington State ECEAP Program cost per child. Washington State has no other available data on preschool costs as preschool is unregulated.

³⁶ Wat, A., "The Pre-K Pinch: Early Education and the Middle Class," (Washington, DC: Pre-K Now, 2008). http://www.preknow.org/documents/pre-kpinch_Nov2008_report.pdf.

consistent with national data, which shows a dramatic 21-point dip in preschool participation for the children of families with incomes below \$40,000 compared with families with incomes of \$60,000 or more per year.³⁷

The Longview School District fall 2011-12 kindergarten assessment data (page 10) begins to illustrate the educational difference preschool can make for the children of working poor and middle class families. The district found a 24-point difference in the need for intensive, costly intervention between children who attended preschool in the community (25 percent) and children with no preschool (49 percent). (This does not include children who attended ECEAP, Head Start or who had a special education individualized education plan.) Consistent, high-quality preschool is very likely to create even bigger gains for children.

- **Broad availability will foster increased participation of high-risk, vulnerable children.** In addition, a program available to all may reach many more vulnerable children than programs focused only on children who are low-income or have adverse early childhood experiences, such as domestic violence. Targeted programs fail to reach many high-risk families due to difficulties in identification, changes in eligibility, and geographic mobility. As noted above, programs targeted to children in poverty also do not adequately address issues of access for children whose families have modest incomes and have the lowest preschool participation rates. Income-targeted programs also do not reach all children who have multiple adverse childhood experiences, which influence life-long risk for problems ranging from alcohol and drug abuse to heart disease and problems finding and keeping a job.³⁸

Defining Elementary School Attendance Areas as the Eligibility Zone Promotes Effective

Delivery. Using the attendance areas of schools with state-funded kindergarten as the “eligibility zone” will help ensure access for all families living in the eligibility area during phase-in and provide a good proving ground for implementing and refining Washington Preschool. As the program approaches full implementation, the school district could become the eligibility zone. This is similar to New Jersey’s district-wide eligibility, but on a smaller scale. This zone approach has been highly effective in clusters of elementary schools in Montgomery County, Maryland, where, since 1999, children in Title I schools with a track record of poor performance have had access to top-notch preschool and an aligned continuum of K-12 education. This has produced enviable results: Nearly 88 percent of third graders read proficiently and about 90 percent of 12th graders graduate from high school, with 77 percent of graduating seniors enrolling in college³⁹.

The Technical Workgroup envisions that, most frequently, the eligibility zone would be a single elementary school catchment area, but it could be a cluster of elementary schools, grouped to reach the number of preschoolers necessary to establish a viable program. Also, this approach supports alignment between preschool providers and elementary schools, which are key to promoting a strong P-3 educational continuum.

Integrating with Special Education Provides Benefits. When children with disabilities and developmental delays learn side-by-side with typically developing children, everyone benefits. For this reason, the technical workgroup recommends that 3- and 4-year-old children receiving special education services with individualized education programs [IEPs] (in accordance with the federal Individuals with Disabilities Education Act, Part B), be integrated into Washington Preschool as much as possible. Further, the workgroup recommends that a task group continue to meet to determine models for blending and braiding funding for this integration, whether the program is provided by school districts or other agencies.

This approach will build on current strengths. In the 2010-2011 school year, 10,188 Washington children ages 3 to 5 received special education services. Of these, 830 were served in the state’s ECEAP program; 98 percent of ECEAP contractors provided this integrated service. One thousand nine hundred (1,900) children with IEPs were served in

³⁷ Barnett, S.W., Yaro, D.J., “Who Goes to Preschool and Why Does It Matter?” (November 2007) NIEER <http://nieer.org/resources/policybriefs/15.pdf>

³⁸ Anda et al. (2008) BMC Public Health 8, doi:10.1186/1471-2458/8/198

³⁹ Marietta, G. “Lessons in Early Learning: Building an Integrated PreK-12 System in Montgomery County Public Schools” Education Reform Series, (August 2010)

Head Start and 100 percent of the state's Head Start grantees participated. Integrating preschool special education and the new state preschool program will create an economy of scale that allows more children to experience inclusive, natural settings. Further analysis will be needed to create models for braining of funds.

Providing Transportation Will Remove Barriers to Participation. The Technical Workgroup recommends that, initially, only limited transportation be funded for Washington Preschool. Further analysis will be needed to determine specific transportation needs and options in the early years of implementation.

B. Provide High Quality and Adequate Intensity: Program Quality and Standards

The following recommendations are based on the combination of preschool quality elements research shows contribute most to child outcomes and a considered prudence as befits the current economic climate. These elements work in unison; reducing one element is likely to reduce the educational effectiveness of the program.

Research has consistently shown that 3- and 4-year-olds that attend high-quality preschool are more successful in kindergarten and beyond--both academically and socially. These benefits carry through to the work force. However, the benefits and return on investments detailed above and in the *Cost Benefit Analyses* only accrue to preschool programs with high-quality teaching and activities, health and safety provisions and relationships with parents. Program structure, including teacher qualifications, class size, teacher-child ratios, are equally important elements,⁴⁰ as is the presence of a data infrastructure that effectively measures and supports program quality and outcomes. It is the package that has an impact; single elements do not produce sufficient gains.

Program Quality and Standards Recommendations

6. ***Teacher Qualifications.*** Set high teacher qualifications. Charge DEL with defining this in more detail, aligning it with the statewide early learning professional development system. For:
 - Lead teachers, require a bachelor's degree in early childhood education or related field or a bachelor's degree in any field with demonstrated competence in an early childhood setting; and,
 - Assistant teachers, require an associate's degree in early childhood education or related field.
7. ***Professional Development.*** Require 100 approved hours of continuing education study and/or equivalent academic credit (10 quarter hours) every five years, with a minimum of 15 hours per year.
8. ***Class Size and Ratio.*** Set a maximum class size of 18 children and minimum ratio of classroom staff to children of 1:9. Provide more intensive support for the most vulnerable children by reducing class size or teacher: child ratios.
9. ***Preschool Classroom Hours.*** Increase the number of classroom hours (dose) to a minimum of 450 per year, from ECEAP's current 320 hours. Allow additional hours for the most vulnerable children.
10. ***Provide Tiered Family Support and Health Services.*** Tailor family support and health services to individual family needs. Use the preschool application process and any adverse family or child events experienced during the year to determine service levels.
11. ***Cultural Relevance.*** Ensure that all aspects of teaching and learning are culturally relevant to participating children and their home cultures. This will enable Washington preschool to provide educationally effective preschool services to the rich diversity of Washington children.
12. ***Program Performance Standards.*** Charge DEL with developing detailed contractual program performance standards, aligned with these recommendations, and periodically updating the standards as needed to streamline implementation and enhance program outcomes.

⁴⁰ Espinosa, L. M. High Quality Preschool: Why We Need It and What It Looks Like. (11/02) <http://nieer.org/resources/policybriefs/1.pdf>

Washington Preschool and ECEAP Program Standards Comparison

For reference, the chart below provides a comparison of the current ECEAP standards with the recommended Washington Preschool Program standards.

	Current ECEAP	Washington Preschool Recommendation	Difference
Classroom Hours	320 hours per year, minimum.	450 preschool classroom hours per year, minimum	40% more hours
Teacher Qualifications	Lead Teacher- AA or higher degree w/ 30 credits in early childhood education	Lead Teacher- BA Degree in Early Childhood Education or related field, or BA & demonstrated competence	BA Degree- ECE /Related field; or BA degree & demonstrated competence
Class Size and Teacher/Child Ratio	Maximum class size: 20 Teacher: Child Ratio- 1:9 or better	Maximum class size: 18 Teacher: Child Ratio: 1:9 or better, plus, additional staff for high-risk children (below 130% FPL, homeless, in foster care, with an IEP or English Language Learners)	Smaller class size Added resources for high-risk children (RTI approach)
Professional Development	Lead teachers/ family support specialists - 15 hours per year.	100 approved hours of continuing education study and/or equivalent academic credit (10 quarter hours) must be completed every five years.	More hours and more intentional professional development required
Child Health & Family Support Services	Health screening, assistance with access, family support and engagement and follow-up	Initial screening with tiered child health, family support and engagement based on child and family needs	After initial screening, services based on individual child and family needs

Rationale for Quality and Standards Recommendations

Teacher Qualifications Boost Children's Learning. Effective teachers are knowledgeable about child development and understand the classroom practices necessary to maximize gains. Research, and the experience of long-time practitioners who have extensive experience operating preschool programs, suggests that higher levels of teacher education, and in particular, a bachelor's degree, are associated with higher overall classroom quality, more positive teacher behaviors in the classroom, and greater gains in children's cognitive and social development. This is especially true when coupled with careful monitoring and intentional professional development.⁴¹ It is important, however, to note that requiring BA degrees with inadequate teacher pay will make it difficult to attract and retain good teachers, since the best teachers will choose better-paying jobs.

Reduced Class Size and Child: Teacher Ratios Increases Individualized Teaching Time. Low class sizes and child: teacher ratios afford more time for the individualized and small group instruction that bolsters young children's learning. The recommendation to limit class size to 18 children (down from ECEAP's maximum class size of 20) is a moderate, fiscally responsible recommendation. Preschool research strongly indicates that small class sizes are associated with greater educational effectiveness and other benefits such as improved child health and safety.⁴² Research demonstrates that benefits to children increase for each reduction in class size down to 15, the lowest class size that has been researched.

Overall teacher: child ratios are maintained at the current ECEAP level of 1:9. However, because vulnerable children need more intensive teaching and frequently require other staff resources such as specific language skills or

⁴¹ Kelley, P, Camilli, G, "The Impact of Teacher Education on Outcomes in Center-Based Early Childhood Education Programs: A Meta Analysis" (2005)

⁴² Barnett, S.W., Schulman, K., Shore, R. "Class Size: What's the Best Fit?" Preschool Policy Matters (December 2004)

specialized behavior management skills, additional staff resources are recommended for these children. The workgroup recommends a higher level of funding for children who have families with annual income under 130 percent of FPL, are homeless, are in foster care, are English Language Learners, or require special education and have an individualized education program (IEP).

More Classroom Hours Increase Educational Effectiveness. Duration matters. Even students who are far behind at kindergarten entry can develop vocabulary, math and literacy skills that approach national norms if provided with extended duration preschool that maintains reasonable quality standards.⁴³ Further, the 2004 national SWEEP Study, which included ECEAP, showed very high classroom quality in ECEAP, but only moderate child gains. Researchers hypothesized it was because of ECEAP's very low annual classroom hours, 240 hours at that time. The Technical Workgroup recommends that classroom hours be increased to 450 per year (from ECEAP's 320 hours per year) to be consistent with the Oklahoma and New Mexico programs that are getting good results. Although it is generally recognized that full-day programs produce stronger results, the Technical Workgroup did not recommend a full-day program, as hours are a huge cost driver. The Technical Workgroup believes that the synergies realized by the full set of program quality recommendations contained in this report will produce better outcomes than a longer program without other key factors such as lead teachers with bachelor's degrees.

Differentiated Family Support and Health Services Support Families Most In Need. Research on the Head Start program and current ECEAP outcomes demonstrate the value of health and family support services. These include more frequent health and dental care and higher rates of childhood immunizations. Parents demonstrate increased coping skills, and decreased depression and sickness, which impact child well-being and family stability.⁴⁴ However, not all families need the same level or types of health services and family support. The Technical Workgroup recommends that these services be provided based upon needs identified by screening rather than to all families, as currently provided in ECEAP. This differentiated approach allows services to be tailored to family needs, at a lower cost than a mandated level of service. Recommended services include:

- For all children: developmental, vision, hearing, and height/weight/BMI screening with follow-up, as indicated; tracking of well-child exams, dental screenings and immunizations; family education (e.g., obesity prevention.)
- Based on need: Intensive family supports and health services case management for children.

C. Increase Accountability: Performance Goals and Evaluation

Among the goals underpinning these recommendations is a desire to better systematize the provision of high-quality preschool and build a continuum of education from early learning through higher education that can boost our state economy and global competitiveness. A pre-K to grade12 system needs the resources and expertise to collect reliable and valid data about children's learning and development in preschool programs. Only then can stakeholders make sound conclusions about program performance, analyze why some providers may be more successful, and implement research-based continuous improvement efforts.

For these reasons, the Technical Workgroup believes rigorous evaluation processes are important. The Technical Workgroup recommends using a uniform child assessment tool aligned with both the state's quality rating and improvement system and the Washington Kindergarten Inventory of Developing Skills (WaKIDS) and adding nationally normed assessments of preschool classroom quality and teacher-child interaction. The workgroup also recommends continued efforts to connect state preschool data to K-12 and work force data, using the P-20 longitudinal database, which is now under development. This will enable data-driven decisions about program impact and adjustments needed over time.

⁴³ Robin, K. B., Frede, E.C., Barnett, W. B. "Is More Better? The effects of Full-Day vs. Half-Day Preschool on Early School Achievement" (NIEER May 2006) <http://nieer.org/resources/research/IsMoreBetter.pdf>

⁴⁴ Hale, B., V. Seitz, and E. Zigler. (1990). "Health Services and Head Start: A Forgotten Formula" *Journal of Applied Developmental Psychology*. 11, 453-455.

PERFORMANCE MEASURES AND EVALUATION RECOMMENDATIONS

12. *Assess Classroom Quality and Teacher-Child Interactions*. Set high standards and conduct regular classroom assessments using nationally-validated tools. Use assessment data to inform teacher professional development and ensure program compliance. Use the same assessments as the state quality rating and improvement system.
13. *Conduct an independent evaluation of child outcomes and classroom quality*. Use evaluation data to inform implementation and assess results.

This section describes the combination of performance goals and evaluation that can guide implementation, ensure results for children, and ensure accountability for public investments. The Technical Workgroup recommends using a uniform, statewide child assessment tool to assess the growth in children's age-appropriate skill levels. These assessments will be key to informing learning plans for children as well as planning continuous program improvement.

The Technical Workgroup recommends mandating that the same nationally valid tool be used for the child assessment component of WaKIDS, Washington Preschool, ECEAP and the state's quality rating and improvement system. (There is currently an active request for proposals to determine an ECEAP child assessment tool.) This would allow direct comparisons between these early learning and preschool programs and provide consistent data to examine age-appropriate preschool skill levels and kindergarten readiness.

PERFORMANCE MEASURES AND EVALUATION RECOMMENDATIONS (CONTINUED)

14. *Set benchmarks for expected elementary school results*. Set benchmarks for the results expected from this investment of public funds. Assess results regularly and make program refinements and course corrections as necessary to achieve results. Recommended benchmarks are:
 - a. *Increased Number of Children with Appropriate Age-Level Skills at the End of Each Preschool Year* - as measured by a nationally validated, multi-domain assessment conducted at the beginning and end of each year, including the domains of cognitive, language, social-emotional and physical development and approaches to learning.
 - b. *Improved Kindergarten Readiness* - as measured by WaKIDS, in comparison to children with similar demographics.
 - c. *More Students At, or Above, Grade Level by Third Grade* - as measured by established elementary school assessments.
 - d. *Reduced Grade Level Retention, Transitional Bilingual Education program, and Special Education Enrollment by Third Grade* - as measured through data from the PreK-20 database and comparison of like groups of students who did and did not participate in the preschool program.

Rationale for Performance Measures and Evaluation Recommendations

Classroom Quality is a Predictor of Educational Effectiveness. Research shows that child outcomes correlate with classroom scores on nationally validated assessments of the classroom environment and teacher-child interactions.⁴⁵ The Technical Workgroup recommends use of these assessments to help ensure classroom quality and to guide teachers' professional development. We recommend first assessing the classroom environment, then moving to an assessment of teacher-child interactions once high classroom environment ratings are achieved. Nationally-validated assessment tools (e.g., the Early Childhood Environmental Rating Scale, or ECERS, and the

⁴⁵ Espinosa, L.M., High-Quality Preschool: Why We Need It and What It Looks Like. November 2005. NIEER. <http://nieer.org/resources/policybriefs/1.pdf>

Classroom Assessment Scoring System, or CLASS) are widely used for these purposes. The Technical Workgroup recommends use of assessment tools that are consistent with those used in Washington's child care quality rating and improvement system to provide economies of scale and ability to analyze outcomes across programs.

Assessment and Evaluation Linked to WaKIDS Can Inform Implementation and Provide Accountability.

The workgroup recommends a strong external evaluation component for Washington Preschool with a focus on classroom quality and child outcomes. This will provide the state and preschool providers with the information necessary to make data-driven decisions while implementing the new program. It is recommended that the Washington Preschool evaluation also include a sample of classrooms and children in ECEAP to compare the effectiveness of the two programs.

This independent evaluation using nationally normed assessments of classroom quality and children's development, serves four purposes. The data will be used to:

1. Inform teacher professional development
2. Plan individualized curriculum for children
3. Guide implementation of Washington Preschool
4. Provide accountability and help ensure results

D. Institute a Mixed Delivery System of High-Quality Providers: Eligible Providers

The Technical Workgroup recommends a mixed delivery system with a variety of eligibility providers to help ensure a preschool program that is flexible and draws on the strengths of school and community providers.

SERVICE DELIVERY AND PROVIDER QUALITY RECOMMENDATIONS

15. *Encourage an Array of Providers.* Allow a wide array of public and private entities to serve under contract as Washington Preschool providers, providing that the program is free from religious instruction, activities or symbolism. Examples of eligible providers include, but are not limited to: nonprofit, profit and faith-based organizations, licensed child care centers and family homes, private schools, ECEAP and Head Start providers, school districts, educational service districts, community and technical colleges, local governments, tribes, and tribal organizations.
16. *Establish an Approval Process.* Providers should be approved by DEL through an application process and establishment of a contract for services. They must be in good standing with contract requirements, including performance standards, and applicable state laws and regulations.

Rationale for Mixed Delivery System and Eligible Providers

A Mixed Delivery System with a Wide Pool of Eligible Providers Will Best Serve Our Diverse State. The state's diversity is evidenced by population densities, which range from 2.17 people per square mile in Grant County to 913.72 in King County⁴⁶. School districts (where elementary school boundaries will comprise eligibility zones) are equally diverse. In the 2011-12 school year, 90 Washington school districts had an enrollment of 25 or fewer first graders, 81 had enrollments of 100 or fewer first grade students, while 45 have first grade enrollments of 500 to 4,241 children.⁴⁷ With this diversity, no single type of provider will be available or effective in every area of the state. In addition, creating this wide pool of eligible providers is more cost-effective as it can take advantage of existing preschool providers and facilities.

⁴⁶ Washington State Office of Financial Management. April 1 2011. "Population Density and Land Area by County" Based on 201 US Census. <http://www.ofm.wa.gov/pop/popden/default.asp>

⁴⁷ OSPI 2011-12 Report of Enrollment by School District

In addition, national research demonstrates that state preschool programs carried out by a variety of types of providers can deliver results for children. The most fundamental criterion for eligible providers is program quality.

The Approval Process Will Be Streamlined and Effective. The Technical Workgroup believes that the due diligence required in the application and contracting process, coupled with the rigorous assessment of quality described in Section C and routine contract and program monitoring, will be adequate to assure program quality and appropriate financial management. The requirement that contractors be in good standing with the contract provisions and applicable laws and incorporating quality measures in the contract renewal will allow DEL to terminate the contract of a provider that is not meeting requirements.

Washington Preschool and ECEAP Program Provider Comparison

The chart below provides a comparison of the current providers eligible to participate in ECEAP, with the providers recommended for Washington Preschool.

	ECEAP	Washington Preschool Recommendation	Difference
Eligible Providers	Public or private nonsectarian organizations	Public and private entities, including nonprofits, for profit organizations and sectarian organizations providing that the program is free from sectarian instruction, activities or symbolism	Open to more types of providers

E. Direct DEL to Implement Washington Preschool: Governance

The Technical Workgroup believes that it will be most effective and efficient for a single state agency to manage the state preschool program(s). The success of Washington Preschool will depend in large part on its implementation, so the Technical Workgroup recommends an advisory committee and regular review of program standards and results. At the same time, the new preschool program will create opportunities to improve alignment of preschool and early elementary school. Thus, the Technical Workgroup makes the following recommendations.

GOVERNANCE RECOMMENDATIONS

18. *Direct DEL to Institute and Manage the Preschool Program.* Direct the DEL to implement and manage the new preschool program and accompanying funds and to work in consultation with OSPI to promote preschool through third Grade (P-3) educational alignment.
19. *Establish an Advisory Committee.* Direct DEL to use the Early Learning Advisory Council (ELAC) as an advisory committee to guide development of the new preschool program, consistent with ELAC's statutory membership requirements and functions. Request that ELAC establish a subcommittee for this purpose with the requisite technical expertise and representation.
20. *Require an Annual Review of the Preschool Program, Implementation Issues and Results.* The annual review should include preschool program implementation issues and recommended adjustments to program standards (if any), evaluation results, preschool program outcomes, and progress on preschool to third grade alignment of curriculum and instruction. The review should be carried out by DEL in consultation with OSPI, drawing on the input and counsel of ELAC.

Rationale for Governance Recommendations

DEL is a Capable Preschool Program Manager - DEL has substantial expertise in this area, making this one of the more clear-cut choices that the Technical Workgroup faced. DEL should work closely with OSPI to improve the alignment of preschool and elementary school education and to analyze the progress of preschool children throughout their K-12 careers. The Advisory Committee is recommended in the interest of helping ensure that program results guide refinements as may be necessary during implementation.

F. Create a Single High-Quality Preschool Program: Role of ECEAP

Research shows that children of all abilities and family incomes may benefit from the program described in these recommendations. This led the Technical Workgroup to make the following recommendations:

ROLE AND DISPOSITION OF ECEAP RECOMMENDATIONS

21. [*Merge ECEAP into the new program upon full implementation.*](#) ECEAP enrollment slots should be converted to Washington Preschool in graduated steps so that children can benefit from the higher intensity and higher quality preschool program.
22. [*Maintain two side-by-side programs during early implementation.*](#) In the early phases, maintain the two programs and gradually convert ECEAP slots to the new program. Use this opportunity to evaluate the difference in classroom quality and educational gains among ECEAP, converted ECEAP and Washington Preschool sites. Guide implementation and make adjustments in program design as suggested by the evaluation findings.

Rationale for Role of ECEAP Recommendation

At full implementation, maintaining only one program will allow Washington to produce improved gains for children and reduce the complexity of running side-by-side programs. Maintaining ECEAP for a period of time, rather than converting ECEAP to the new program early on, is recommended to reduce cost in the early years and to increase services to mixed-income families.

G. Make Washington Preschool a Statutory Entitlement at Full Implementation

The Technical Workgroup researched legal and programmatic issues related to implementation of the preschool program as a program of basic education or as an entitlement (either statutory or constitutional). Basic education clearly provides the greatest access for children and the most protection of funding. However, the Technical Workgroup believes that, at this time, associated governance requirements and political challenges would put the focus on legal requirements and politics rather than on the impact of preschool. For this reason, the Technical Workgroup recommends that Washington Preschool become a statutory entitlement consistent with HB2731.

ENTITLEMENT RECOMMENDATION

23. [*Make Preschool a Statutory Entitlement Program.*](#) When full implementation is achieved, any eligible child shall be entitled to be enrolled in the program.

Rationale for the Entitlement Recommendation

This recommendation that preschool be available to all eligible children is based on the large body of research showing significant educational benefits of high-quality preschool for children of all abilities and income levels. Due to legal and political considerations, at this time, the Technical Workgroup recommends an entitlement approach. As Washington Preschool approaches full implementation, a provider of last resort (an entity that is required to provide the program in a community if no other entities step forward to do so) such as school districts, should be considered.

Opportunities and Barriers: Basic Education and Entitlement

This section presents the examination required in SB 6759 of the opportunities and barriers associated with at least two options for implementing a preschool program: as part of basic education, or as a statutory or constitutional entitlement. The Technical Workgroup researched the definitions and implementation processes for each alternative and then examined opportunities, issues and options for implementing the preschool program as part of basic education or as an entitlement. The term “issues and options” is used rather than barriers as the Technical Workgroup found that the “barriers” have positive aspects as well as challenges.

The Technical Workgroup believes that the balanced recommendations detailed in this report will produce the best possible results at the recommended costs per slot. At full implementation, all 3- and 4-year-old children should be entitled to participate in Washington Preschool. Whether as basic education or an entitlement program, requiring that all children have the opportunity to participate will result in both increased educational attainment and administrative costs associated with making the program available to all. Two appendices contain related information.

- Appendix A: Attorney General Opinion 2009, No 8
- Appendix D: Matrix of differences and similarities between preschool programs that are included as part of basic education versus programs that are an entitlement (from the Technical Workgroup's July 2011 Status Report.)

The chart below defines the key terms, implementation processes and examples of basic education, entitlements and categorical expenditures. The next three charts describe the opportunities, issues and options for Washington Preschool that should be considered if the program is part of basic education or a statutory or constitutional entitlement.

	Definition	Implementation	Example
Basic Education	The minimum educational program defined to meet the State's duty under Section 1 of Article IX of Washington State's Constitution - <i>"It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race,</i>	<ul style="list-style-type: none"> • Legal decisions • Policy bill • Budget appropriation 	Special education
Statutory Entitlement	An entitlement is a guarantee of access to specific benefits as directed by enacted legislation.	<ul style="list-style-type: none"> • Policy bill • Budget appropriation 	HB 2731 (Established preschool for eligible children as an entitlement)
Constitutional Entitlement	An entitlement is a guarantee of access to benefits as defined in a provision of the Washington State Constitution, which could include a new constitutional amendment.	<ul style="list-style-type: none"> • Two-thirds vote in House and Senate • Governor signature • Vote of the people (50%+1) 	House Joint Resolution 4204 (Local school levies required a 60% +1 vote to pass maintenance levies)
Categorical Expenditure	A program or expenditure funded in the enacted budget.	<ul style="list-style-type: none"> • Budget appropriation • Policy bill is not necessary 	ECEAP National Board Teacher Certification Home visitation programs

Opportunities, Issues and Options as a Program of Basic Education

Component	Considerations	Opportunities	Issues and Options
Overall		<ul style="list-style-type: none"> Provides most funding protection 	<ul style="list-style-type: none"> See below
Governance	State Constitution grants OSPI supervisory authority over the public school system. Early learning would have to be defined as part of the public school system to be included as part of "basic education."	<ul style="list-style-type: none"> Single agency oversees preschool and K-12 schools 	Either: <ul style="list-style-type: none"> State preschool programs are managed by two state agencies (DEL-ECEAP/ OSPI- WA Preschool Program); or OSPI contracts management to DEL, requiring some level of oversight at two state agencies.
Transportation	Required to provide transportation for eligible students who would be unable to participate without transportation.	<ul style="list-style-type: none"> Transportation enables more children to attend preschool 	<ul style="list-style-type: none"> More children have access to preschool, but cost is higher.
Sectarian Influence	Article 9, Section 4 of the Washington State's Constitution has been interpreted in a manner that would prohibit basic education funds from being used to support an institution with sectarian control or influence.		<ul style="list-style-type: none"> Reduces options concerning the number and types of capable preschool providers (religiously influenced organizations would likely be ineligible for basic education funding). May increase need for new facilities by prohibiting participation of a type of current provider with existing space.
Where Services are Delivered	Under Article 9, Section 2 of Washington State's Constitution, basic education must be delivered through a general and uniform system of public schools. This would allow School Districts or Educational Service Districts to oversee programs locally.	<ul style="list-style-type: none"> Systematic statewide coverage through school districts and their contracts. 	<ul style="list-style-type: none"> Affords and requires connection with K-12 schools.

Opportunities, Issues and Options as a Statutory Entitlement

Component	Considerations	Opportunities	Issues and Options
Overall	Less protection of funding than Basic Education, but more than as a categorical expenditure	<ul style="list-style-type: none"> At scale all families with 3 and 4 year olds would have access to voluntary high quality preschool 	<ul style="list-style-type: none"> Entitlement approach could create pressure to reduce quality in tough budget times.
Governance	No constitutional requirement. Implementing agency selected by the state legislature and the Governor.	<ul style="list-style-type: none"> More flexibility in determining implementing agency 	
Transportation	Optional	<ul style="list-style-type: none"> More flexibility in determining transportation 	
Sectarian Influence	If not purporting to implement the "education" mandate under article IX of the state constitutions, an early learning program would likely be reviewed under the less restrictive requirements of article I, section 11, which prohibits public money from being appropriated or applied to any religious worship, exercise, or instruction.	<ul style="list-style-type: none"> Ability to contract with for-profit and sectarian providers (providing program contains no sectarian instruction, activities and/or symbolism). Reduces need for new facilities as more existing preschool and child care providers will participate. 	

Opportunities, Issues and Options as a Constitutional Entitlement

Component	Considerations	Opportunities	Issues and Options
Overall	Some funding protection. Difficult to dismantle	<ul style="list-style-type: none"> At scale all families with 3 and 4 year olds would have access to voluntary high quality preschool, within funding made available. Freedom from Basic Education restrictions such as OSPI supervision, and delivery restricted to public schools 	<ul style="list-style-type: none"> Hard to establish. Requires 2/3rds majority of the legislature plus a vote of citizens Absent the tie to paramount duty, difficult to discern any benefit above that of a statutory entitlement Less flexibility than a statutory entitlement
Governance	As specified in the Constitution.	<ul style="list-style-type: none"> More flexibility in determining supervising agency 	
Transportation	Optional	<ul style="list-style-type: none"> Flexibility 	
Sectarian Influence	Flexible providing that the program is free of religious instruction, activities or symbolism	<ul style="list-style-type: none"> Flexibility 	

Timeline: Phase-in Gradually, Implement Fully by Fiscal Year 2024-25

The Technical Workgroup believes that voluntary high-quality preschool and full-day kindergarten are equally important for improving educational achievement gains. This, combined with the need for prudence in this economic climate, leads the Technical Workgroup to recommend that Washington:

PHASE-IN RECOMMENDATION

24. [Link implementation of Washington Preschool to Full-Day Kindergarten.](#)
25. [Phase in the preschool program gradually so that it reaches full implementation in school year 2024-25.](#)

Financial Model Assumptions

The funding recommendation and cost projections are based on the following assumptions, which represent the Technical Workgroup's strategic thinking about the funds required to substantially improve educational outcomes for children, at the lowest realistic cost to the state.

Differentiated slot cost. As shown in the table to the right, cost per slot will vary due to differing levels of subsidization based on family income and developmental risk factors. Co-pays make up the difference between full cost and state share. As illustrated in slot costs, additional increments of staff resources will be provided for children who: a) are very low-income or are homeless or in foster care; or b) have an IEP; or c) are an English Language Learner.

Per Child Cost by Family Income and Risk Factors		
Per Child	State share	Family Income & Risk Factors
\$8,413	\$8,413	≤130% FPL/foster/homeless
\$7,466	\$7,466	130.1 to 185% FPL
\$7,237	\$7,237	185.1-200% FPL
\$7,099	\$7,099	200.1-250% FPL
\$7,008	\$6,558	250.1-300% FPL
\$6,033	\$5,133	300.1-400% FPL
\$5,984	\$4,184	400.1-500% FPL
\$5,640	\$2,040	>500% FPL
\$1,951	\$1,951	Additional per child with IEP
\$1,338	\$1,338	Additional per ELL child

Participation estimate. At full implementation, the Technical Workgroup estimates that families of 62 percent of 4-year-olds and 33 percent of 3-year-olds will choose to participate in the new preschool program (83,785 of approximately 176,190 preschoolers). Population estimates were provided by the Office of Financial Management. Estimates are based on the 2009 American Community Survey. (Note: Numbers are estimates. Poverty data was not available for all persons. People with missing poverty data are missing from this estimate.) Estimates are calculated based on family income as a percentage of FPL. The maximum annual income for a family of three is provided as an example.

The bands of income in the table to the right are tied to intensity of services and graduated co-pays. A portion of these children will be in special education preschool with an IEP or English Language Learners; see the 2010-11 count of these children under “Additional Risk Factors” in the same table.

Differentiated slot cost. As shown in the figure above, cost per slot will vary due to differing levels of subsidization based on family income and developmental risk factors. Co-pays make up the difference between cost and state share. As illustrated in slot costs, additional increments of staff resources will be provided for children who:

a) are very low-income or are homeless or in foster care b) have an IEP; or c) are an English Language Learner.

New and existing slots. Of these 83,785 estimated participating preschoolers noted above, 52,816 will be new preschool slots. The other 30,969 children are now served by ECEAP, Head Start, American Indian and Alaska Native Head Start, Seasonal Head Start and special education preschool.

Graduated co-pays for higher income families

Families with incomes above 250 percent of the federal poverty level will be responsible for graduated co-pays.

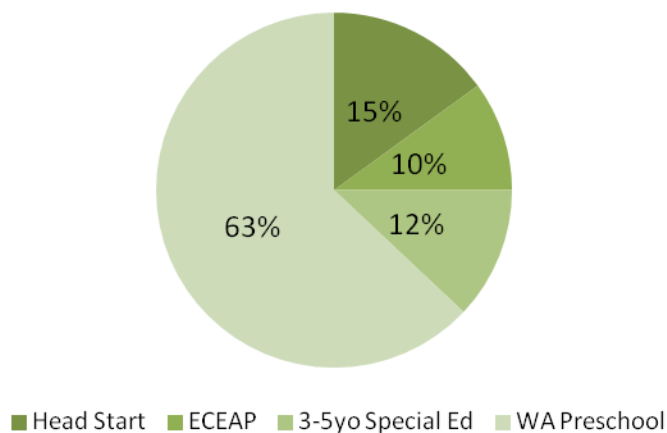
Preschool program staffing. Staffing levels are based on the staffing necessary to create, manage and maintain the preschool quality standards. Preschool program staff compensation is generally based on market rates. However,

teacher salaries are based on University of Washington recommendations prepared for Washington Learns (July 2008), as there is currently little labor market data for BA-degreed preschool teachers in Washington.

Family income is a proxy for high-risk children for costing purposes. In actual implementation, it is recommended that the research-based prioritization point system developed by DEL be used to identify and prioritize high-risk children.

Washington Preschool Participation Estimates by Family Income				
Family Income	Maximum annual income for family of 3	# of Children	% Estimated participation	Estimated participants
FPL 0-130%	\$24,089	45,180	65%	29,367
FPL 130.1-185	\$34,281	21,486	65%	13,966
FPL 185.1-200	\$37,060	4,991	60%	2,995
FPL 200.1-250	\$46,325	15,848	55%	8,716
FPL 250.1-300	\$55,590	15,588	50%	7,794
FPL 300.1 -400	\$74,120	22,372	40%	8,949
FPL 400.1 -500	\$92,650	18,535	30%	5,561
FPL > 500		32,190	20%	6,438
Additional Risk Factors for these children				
Individualized Education Plan		10,188	100%	10,188
English Language Learners (16.7%) of K		29,424	70%	20,597

Percentage New Washington Preschool Slots and Existing Slots



Phase-In

This section contains recommendations for phase-in and implementation followed by costs for each of the first three years.

Recommended Phase-In Strategy

To allow for a reasonable start-up scale and to support development of the preschool through third grade continuum, the Technical Workgroup recommends the following:

- Begin the new program with 936 3- and 4-year-olds who live in elementary school attendance areas where there is state-funded full-day kindergarten and lower than average access to Head Start and ECEAP.
- Select sites through a competitive process.

Phase-in recommendations are as follows:

PHASE-IN RECOMMENDATIONS

26. *Appropriate Planning Funds for FY 2012-13.* Appropriate \$118,267 and allot an FTE in fiscal year 2012-13 to DEL for development of program standards, data management system and a competitive request for proposals for Phase One sites.
27. *Hold the Number of ECEAP Slots Constant during Phase In.* Make no reduction in the number of ECEAP slots during the phase-in of Washington Preschool, except for those slots that are directly converted to Washington Preschool slots.
28. *Identify Contractors Through a Competitive Request for Proposals.* The RFP process should be open to new providers and to existing ECEAP and Head Start Providers. Proposal evaluation factors should include, but not be limited to:
 - Demonstrated ability to create a high quality preschool program that meets Washington Preschool program standards, including performance standards;
 - Ability to provide the program to sufficient numbers of children needed to achieve a mixed income classroom in each setting;
 - Sound analysis and support for the number of preschool slots requested;
 - Community need, including number and percent of 3-and 4-year-olds in low-income families underserved by state- or federally funded preschool programs; and,
 - Kindergarten transition plan(s) and alignment of curriculum and instruction between the preschool and local elementary schools(s).
29. *Priority for Phase-in Should be Based on Community Need.* Phase-in by groupings based on community need as follows.
 - a. **State-funded Full Day-K and Underserved:** Start with contractors who can serve children in low-income, state-funded full-day K elementary school attendance areas (or clusters of elementary schools in more rural areas of the state) that are also relatively underserved by Head Start and ECEAP. Allow some ECEAP conversion.
 - b. **Remaining State-funded Full Day K and Underserved Areas:** Open the requests for proposals to the balance of full-day kindergarten school attendance areas and the balance of underserved areas. Include gradual conversion of ECEAP slots.
 - c. **Convert Remaining ECEAP slots:** Require conversion of all ECEAP slots to the Washington Preschool Program
 - d. **Open to All.** Open to balance of the state for proposals for areas ranging from elementary school attendance areas to entire school districts.
26. *During Phase-In hold 50 percent of slots for high-risk children.* Hold 50 percent of slots for high-risk children as determined by the prioritization point system. Select the remaining 50 percent of children from applicants, by lottery on or about June 1 of each year.
30. *Initiate early implementation in three phases.* The Technical Workgroup recommends the early implementation plan noted below.

The steps and funding required for this first phase are:

Year	Actions	Item	Cost
2012-13	DEL: Develop program standards, evaluation plan and data systems. Complete facilities survey. Conduct competitive statewide RFP for 936 slots/10-15 preschool providers in full-day kindergarten elementary school attendance areas underserved by current publicly-funded programs	1 FTE + related goods, services, travel	\$98,267
		Facilities Survey	20,000
		Total	\$118,267
2013-14	DEL: Develop evaluation plan and data systems, train providers.	1 FTE	\$76,817
		Goods, Services, etc.	21,450
	Preschool Providers: Hire and train site supervisory staff, prepare facilities and classrooms (~26), hire program staff and enroll children	Facilities	500,000
		Program Development	350,000
		Total	\$948,267
2014-15	Begin Washington Preschool for 936 children at 10-15 sites around Washington.	PreK-Services	\$4,540,623
		Equipment/materials	195,000
		Program Evaluation	290,460
		Total	\$5,026,083

Rationale for the Implementation Recommendation

The Technical Workgroup recommends holding the total number of ECEAP slots plus ECEAP slots converted to the new program constant during phase-in because of the importance of preschool to educational attainment of high-risk children. A competitive request for proposals to identify preschool providers is recommended in the interest of securing high-quality providers and providing fair access to a limited number of slots.

The priority for phase-in slots is intended to demonstrate the results of high-quality preschool and promote intentional links between preschool and elementary schools. Analysis of the current level of ECEAP and Head Start services shows that 51 school districts are extremely underserved (having 72 or more eligible children unserved by ECEAP or Head Start.) Of these underserved districts, 31 are state-funded full-day kindergarten districts with a total of 123 elementary schools. This will allow ample opportunity for early phase-in in areas with high numbers of vulnerable children⁴⁸. Recommendations for later phases would serve communities with higher numbers of higher-risk children first and eventually to serve the balance of the state.

Next Steps for Creating the Washington Preschool Program

The Technical Workgroup identified the following steps for implementation of the preschool program:

1. Prepare for Implementation. The following actions will be required to prepare for implementation:
 - a. Create program performance standards and make any necessary additions to the Early Learning Management System (ELMS).
 - b. Prepare and conduct a competitive request for proposals for Phase One contractors.
 - c. Enter into an interagency agreement with a state research university or conduct a request for proposals for program evaluation.
2. Develop Braided Funding Models. It is important that 3- and 4-year-olds have high-quality learning and development for all of the hours that they are in care. The Technical Workgroup believes that there are significant opportunities to boost educational gains for children and achieve programmatic cost efficiencies through alignment of policy, regulations and funding among Washington Preschool, child care subsidies, Head Start and special education preschool. The Technical Workgroup recommends identification and

⁴⁸ Based on 2010-11 school year data and on the assumption that if access was equitable across the state, each district's percentage of the state's ECEAP & Head Start slots would be similar to its percentage of the state's first graders with free lunch.

resolution of policy barriers and creation of models for braiding funds to integrate these programs as much as possible. Additionally, the Technical Workgroup recommends that DEL work with the Office of Head Start to explore options for increasing the alignment of Head Start and Washington Preschool.

3. Identify Appropriate Related Degrees and Methods for Demonstrating Teacher Competence. Teacher qualifications require degrees in early childhood education or a related field. Lead teacher qualifications include an option for bachelor's degree in any subject *and* demonstrated competence. Appropriate early childhood-related degrees or coursework should be specified and a method for demonstrating competence should be identified. This should be done in consultation with the Professional Development Consortium so that requirements are aligned with Washington's quality rating and improvement system.
4. Establish Policies for State Contribution to Preschool Facilities Operated by Public and Private Entities. Lack of facilities has prevented some low-income communities from participating in ECEAP. As preschool expands, this can be expected to become a larger issue. According to a September 2011 estimate, the cost of a portable two-classroom building with plumbing (low-cost new facilities used by school districts) is between \$200,000 and \$250,000 to serve 72 preschool children. This is beyond the reach of Washington's lowest-income communities. DEL should be directed to conduct a preschool facilities survey and to develop a preschool facilities plan and policy recommendations by December 15, 2012. The following two issues should be considered as part of this work:
 - a. Funding to be contributed by the state, eligibility of public and private entities to apply for and receive state preschool facilities funds, allowable uses and ownership rights for facilities receiving state support.
 - b. Changing the K-12 capital funding formula to allow classrooms used for preschool and child care to be counted as classrooms in use. Currently school classrooms used for preschool are counted as surplus space, which inhibits preschool to third grade alignment and reduces facilities available for preschool.
5. Analyze Transportation Needs and Establish Funding Policies. The extent to which lack of transportation constitutes a barrier to preschool participation is unknown and should be analyzed in the early years of Washington Preschool implementation. The Technical Workgroup recommends that transportation options be developed to address any identified barriers so that more children can benefit from preschool.

Appendices

- A. Attorney General Opinion 2009, No. 8**
- B. Substitute Senate Bill 6759**
- C. Second Substitute House Bill 2731**
- D. Differences and similarities between preschool programs that are included as a part of “basic education” versus programs that are an “entitlement”**
- E. Summary of high-quality preschool programs in Washington, other states**

Appendix A
Attorney General Opinion 2009, No. 8

EDUCATION—PUBLIC SCHOOL SYSTEM—RELIGION—SUPERINTENDENT OF PUBLIC INSTRUCTION—Constitutional Implications Of Adding Early Learning To Statutory Definition Of Basic Education

1. The Legislature may create a basic education program of early learning that is limited to students who are at risk of educational failure. However, article IX, section 1 of the Washington Constitution would preclude limiting such a program to students from low-income households, absent a showing that low family income is an accurate proxy for the risk of educational failure. This would include showing that other students facing the risk of educational failure are not excluded based on family income.
2. Public funds may be used for the operation of early learning programs by sectarian organizations only if the programs remain free of sectarian control or influence, and if the funds are not used for a religious purpose.
3. An early learning program defined to constitute a component of “basic education” must be supervised by the Superintendent of Public Instruction.
4. If the Legislature defines “basic education” to include a program of early learning, but the state lacks facilities to fully implement such a program immediately, the Legislature must establish a plan to overcome or correct such limitations within a reasonable period of time.
5. The Legislature may establish qualifications required for teachers in an early learning program that is incorporated within “basic education.”
6. The Washington Constitution does not require that transportation be provided for students in a basic education program of early learning, except perhaps where the absence of transportation would make basic education unavailable.

December 11, 2009

Honorable Rosemary McAuliffe
State Senator, 1st District
PO Box 40401
Olympia, WA 98504-0401

Honorable Claudia Kauffman
State Senator, 47th District PO
Box 40447
Olympia, WA 98504-0447

Cite As:

Honorable Eric Oemig State
Senator, 45th District PO Box
40445
Olympia, WA 98504-0445

Honorable Fred Jarrett State
Senator, 41st District PO Box
40441
Olympia, WA 98504-0441

AGO 2009 No. 8

Dear Senators:

By letter previously acknowledged, you requested our opinion on several questions concerning a task force recommendation and proposed legislation to create an early learning program for certain of Washington's children. For clarity and efficiency of analysis, we have paraphrased and reorganized your questions as follows:

1. **Article IX, sections 1 and 2 of the Washington Constitution require the state to make ample provision for the education of all resident children and to maintain a general and uniform system of public schools. Does either section constrain the state's ability to create a basic education program of early learning for only at-risk students from low-income families?**
2. **Does either article I, section 12 of the Washington Constitution or the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution constrain the state's ability to create a basic education program of early learning for only at-risk children from low-income families?**
3. **Some existing state early learning grants are provided to sectarian organizations under article I, section 11 of the Washington Constitution. If the Legislature were to include an early learning program for at-risk, low-income children ages three and four in the definition of "basic education," would the constitutionality of such a program be assessed instead under article IX, section 4 of the Washington Constitution?**
4. **If the answer to question 3 is yes, would article IX, section 4 of the Washington Constitution prohibit the granting or appropriation of state funds to sectarian organizations?**
5. **Under article III, section 22 of the Washington Constitution, the Superintendent of Public Instruction supervises all matters pertaining to public schools. If the Legislature were to pass legislation that replaced the current Early Childhood Education and Assistance Program, as applied to at-risk children, with a new basic education program of early learning, would the new program need to be administered by the Office of the Superintendent of Public Instruction?**
6. **If the Legislature were to create a new basic education program of early learning that replaced the Early Childhood Education and**

Assistance Program, would the previously-mentioned constitutional provisions permit the state to maintain currently-established waiting lists of eligible students for the new basic education early learning program? Would the answer be different if the state currently does not have the building or staff capacity to provide an early learning program for all eligible children?

- 7. If the Legislature were to create a new basic education program of early learning, do the constitutional requirements for basic education require that teachers in the early learning program be certified and have completed an education degree program?**
- 8. If the Legislature were to include transportation to and from school as part of the K-12 basic education program, would it also have to provide transportation to students who participate in a basic education program of early learning?**

BRIEF ANSWERS

1. Article IX, sections 1 and 2 of the Washington Constitution do not preclude the state from creating a basic education program of early learning for children who otherwise would be at risk of educational failure. We conclude, however, that legislation providing a basic education program only to students from low-income families would be inconsistent with article IX, section 1, absent a showing that low family income is an accurate proxy for the risk of educational failure. This would include showing that other students facing the risk of educational failure are not excluded based on family income.¹
2. Because the United States Supreme Court has not recognized a fundamental right to education, and the contemplated basic education early learning program does not implicate a suspect class, a challenge under the Equal Protection Clause should be reviewed under rational basis review. Because the Washington Supreme Court has not recognized a fundamental right to education, there is no cognizable “privilege” conferred that would trigger heightened review under article I, section 12 of the Washington Constitution, and a challenge under that section also should be reviewed under rational basis review. Accordingly, the primary constraint imposed by article I, section 12 and the Equal Protection Clause is that the criteria used to determine eligibility for the program must be rationally related to the program’s objective: providing an early learning program to children who otherwise are at risk of educational failure.

¹ The provisions of the state constitution that are discussed in this opinion are set forth in full as an appendix to this opinion.

3. Once an early learning program is included as part of “basic education” in Washington, it must comply with both article I, section 11 and article IX, section 4 of the Washington Constitution.
4. Read together, article I, section 11 and article IX, section 4 of the Washington Constitution prohibit the granting or appropriation of public funds to support religious instruction or any basic education program that is subject to sectarian control or influence. Public funds may be granted or appropriated for the operation of early learning programs by sectarian organizations only if the programs remain free of sectarian control or influence, and the funds are not used for a religious purpose. We conclude that the granting or appropriation of state funds to sectarian organizations for the purposes described in SB 5444 can be accomplished in compliance with article I, section 11. However, absent a fact-specific analysis of the structure and operation of each sectarian organization, the particular early learning program operated by that organization, and the conditions imposed on the organization and enforced by the state, we cannot conclude that the granting or appropriation of state funds to sectarian organizations for the purposes described in SB 5444 can be accomplished in compliance with article IX, section 4.
5. A new basic education program of early learning must be supervised by the Superintendent of Public Instruction; however, the Legislature may create an agency or institution to administer the program under the Superintendent’s supervision.
6. Whether the state could maintain currently-established waiting lists of eligible students for the new basic education early learning program ultimately would require a fact-specific analysis. However, the Legislature would be establishing a new program, and Washington courts have evidenced a willingness to give latitude and time to a new educational program established by the Legislature. If the program includes a reasonable plan to address waiting lists and building and staff shortages in a reasonable time, we would not expect those shortcomings to support a successful constitutional challenge to a basic education program of early learning.
7. The Washington Constitution does not require that teachers in the contemplated early learning program be certified or that they have completed an education degree program. Qualifications for teachers are determined by the Legislature.
8. The Washington Constitution does not require that transportation be provided for students in a basic education program of early learning except, perhaps, where a student would be deprived of basic education if transportation were not available. However, where transportation is provided for other components of basic education, it would be prudent also to provide transportation for children attending a basic education program of early learning.

FACTUAL BACKGROUND

In your opinion request, you explain that your questions concern proposed legislation. You refer us specifically to Sections 110 and 111 of SB 5444, introduced but not enacted in the last session of the Legislature. You further advise us that Sections 110 and 111 of SB 5444 implement a recommendation of a Joint Task Force On Basic Education Finance created by the Legislature in 2007 to review the current basic education definition and funding formulas and to develop a new definition and funding structure options for basic education in Washington. See SB 5627 (2007).

The Task Force issued its final report on January 14, 2009, which recommended “defining basic education to include funding for pre-school programs for all children age three and four whose family income is at or below 130 percent of the federal poverty level, and whose parents choose to enroll in the program.” *Final Report of the Joint Task Force on Basic Education Finance* 14 (Jan. 14, 2009). Section 110(1) of proposed SB 5444 essentially mirrors this recommendation by providing that “the legislature intends to establish a basic education program of early learning for at-risk children that is part of the program of basic education under this chapter[.]” Section 110(3) of proposed SB 5444 defines “at-risk children” to mean “children aged three, four, and five who are not eligible for kindergarten and whose family income is at or below one hundred thirty percent of the federal poverty level, as published annually by the federal department of health and human services.” Participation in the program would be voluntary.

We analyze your questions in the context of this proposed legislation.

ANALYSIS

Because your questions ask about constitutional constraints on the Legislature’s authority, we preface our analysis by noting the general principles Washington courts apply when considering the constitutionality of legislation.

On many occasions, the Washington Supreme Court has recognized the Legislature’s authority to determine how to satisfy the state’s obligation to provide ample funding for the education of all of the state’s children through a general and uniform system of public schools. See, e.g., *Federal Way Sch. Dist. 210 v. State*, No. 80943-7, 2009 WL 3766092 (Wash. Nov. 12, 2009); *Tunstall v. Bergeson*, 141 Wn.2d 201, 221, 5 P.3d 691 (2000), *cert. denied*, 532 U.S. 920 (2001); *Seattle Sch. Dist. 1 v. State*, 90 Wn.2d 476, 518–20, 585 P.2d 71 (1978); *Newman v. Schlarb*, 184 Wash. 147, 153, 50 P.2d 36 (1935); *Sch. Dist. 20, Spokane Cy. v. Bryan*, 51 Wash. 498, 502, 99 P. 28 (1909). The Court has emphasized that while it ultimately has the responsibility to determine whether legislation satisfies constitutional standards, it is not the function of the judiciary to micro-manage Washington’s education system. See *Brown v. State*, 155 Wn.2d 254, 261–62, 119 P.3d 341 (2005); *Tunstall*, 141 Wn.2d at 223; see also *Seattle Sch. Dist. 1*, 90 Wn.2d at 496, 520 (“While the Legislature must act pursuant to the constitutional

mandate to discharge its duty, the general authority to select the *means* of discharging that duty should be left to the Legislature.”).

Legislation is presumed to be constitutional, and the burden is on a person challenging an enacted statute to prove its unconstitutionality beyond a reasonable doubt. *City of Bellevue v. Lee*, 166 Wn.2d 581, 585, 210 P.3d 1011 (2009); *Tunstall*, 141 Wn.2d at 220. The “heavy burden” of establishing that a statute is unconstitutional is met only if the challenger demonstrates through “argument and research” that there “is no reasonable doubt that the statute violates the constitution.” *Amunrud v. Bd. of Appeals*, 158 Wn.2d 208, 215, 143 P.3d 571 (2006); *Larson v. Seattle Popular Monorail Auth.*, 156 Wn.2d 752, 757, 131 P.3d 892 (2006). As the Court has explained, this “demanding standard of proof” is justified because, “as a coequal branch of government that is sworn to uphold the constitution, we assume the Legislature considered the constitutionality of its enactments and afford great deference to its judgment.” *Tunstall*, 141 Wn.2d at 220.

1. **Article IX, sections 1 and 2 of the Washington Constitution require the state to make ample provision for the education of all resident children and to maintain a general and uniform system of public schools. Does either section constrain the state’s ability to create a basic education program of early learning for only at-risk students from low-income families?**

Article IX, sections 1 and 2 do not preclude the state from creating a basic education program of early learning for children who otherwise would be at risk of educational failure. We conclude, however, that legislation providing a basic education program only to students from low-income families is inconsistent with article IX, section 1, absent a showing that low family income is an accurate proxy for the risk of educational failure. This would include showing that other students facing the risk of educational failure are not excluded based on family income.

Article IX, section 1 of the Washington Constitution. Article IX, section 1 provides that “[i]t is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.” As interpreted by the Washington Supreme Court, this provision imposes a duty on the Legislature to define “basic education” and support it with ample funding from dependable and regular tax sources. *Seattle Sch. Dist. 1*, 90 Wn.2d at 519–22; accord *McGowan v. State*, 148 Wn.2d 278, 283–84, 60 P.3d 67 (2002).²

Article IX, section 1 also prohibits any “distinction or preference on account of race, color, caste, or sex.” Providing early education opportunities only to low-income families might be considered to be discrimination based on “caste,” in violation of article IX, section 1. While

² You have not asked us to address what constitutes “ample” funding for an early education program, and

no decision of the Washington Supreme Court has defined “caste,” the dissenting opinion in *Northshore School District 417 v. Kinnear*, 84 Wn.2d 685, 530 P.2d 178 (1974), *overruled in part by Seattle School District 1 v. State*, 90 Wn.2d 476, 585 P.2d 71 (1978), excerpted from a dictionary definition of “caste” to focus on “differences of wealth,” from which it can be inferred that economic status is an important component of “caste.” See *Northshore Sch. Dist. 417*, 84 Wn.2d at 756 n.12.

The *Final Report of the Joint Task Force on Basic Education Finance* recommended that basic education be defined to include a program of early learning only for at-risk students from low-income families. Section 110 of SB 5444 would establish such a program, defining “at-risk children” solely by reference to family income level. SB 5444, § 110(3). Limiting the availability of a component of basic education to some children, but not others, based only on economic status, raises a possible conflict with the constitutional mandate that the state “make ample provision for the education of *all* children residing within its borders, without distinction or preference on account of . . . caste[.]” Wash. Const. art. IX, § 1 (emphasis added).

Article IX, section 1 does not preclude the Legislature from providing a program of early education preferentially to children who need such a program to access subsequent components of the program of basic education in Washington. We conclude, however, that without a sufficient demonstration that family income is an accurate index of educational need, the use of family income to determine eligibility for an early education program that is part of the state’s program of basic education likely would violate article IX, section 1. In other words, once a program of early education is incorporated as a component of basic education, it is no more permissible to limit its availability based on economic status than it would be, similarly, to limit the availability of elementary schools or secondary schools.

Article IX, section 2 of the Washington Constitution. Turning to article IX, section 2, that section provides, in part: “The legislature shall provide for a general and uniform system of public schools.” Article IX, section 2 long has been understood as imposing a fundamental duty upon the state to create a general and uniform public school system. See, e.g., *Federal Way Sch. Dist. 210*, 2009 WL 3766092 at *4, ¶ 18; *Tunstall*, 141 Wn.2d at 221; *Seattle Sch. Dist. 1*, 90 Wn.2d at 522; *Newman*, 184 Wash. at 152. The Legislature has authority to select the means of discharging this duty. *Seattle Sch. Dist. 1*, 90 Wn.2d at 520.

This uniformity requirement does not mandate a one-size-fits-all approach to education. It is not satisfied by rote equality of facilities and instruction for all students, but rather through “free access to certain minimum and reasonably standardized educational and instructional facilities” and a “degree of uniformity which enables a child to transfer from one district to another within the same grade without substantial loss of credit or standing.” *Federal Way Sch. Dist. 210*, 2009 WL 3766092 at *4, ¶ 18 (quoting *Northshore Sch. Dist. 417*, 84 Wn.2d at 729).³ It

³ Much of the decision in *Northshore School District* was overruled in *Seattle School District*. The

holdings in *Northshore School District* cited in this paragraph were not overruled.

does not preclude educational assistance to individuals or groups of individuals who need such assistance to “acquire those skills and training that are reasonably understood to be fundamental and basic to a sound education.” *Northshore Sch. Dist.*, 84 Wn.2d at 729. “[T]he State is not obligated to provide an *identical* education to all children within the state regardless of the circumstances in which they are found.” *Tunstall*, 141 Wn.2d at 220. To conclude otherwise would require us to infer from the constitutional language a limitation on the Legislature’s authority that the Washington Constitution does not actually express. See *Washington State Farm Bureau Fed’n v. Gregoire*, 162 Wn.2d 284, 290, 174 P.3d 1142 (2007) (Legislature has plenary power to act, except as constitutionally limited).

In summary, we conclude that a basic education program of early learning for children who are at risk of educational failure could be implemented without violating article IX, sections 1 and 2 of the Washington Constitution. We do not read either section as mandating absolutely identical educational experiences for all children in disregard of their differing educational needs. See *Tunstall*, 141 Wn.2d at 220 (recognizing the differing circumstances of children). Accordingly, if the Legislature finds, in the exercise of its plenary authority to define basic education, that some children need a particular service and others do not, we see nothing in the constitution that would deny the Legislature the choice to provide the service to those who need it, without extending it to those who do not. That is, the Legislature need not choose between either ignoring the needs of children who are at risk of educational failure, or providing early education to all children, including those who do not need it to succeed. Consistent with article IX, section 1, however, where the Legislature defines an educational program as part of basic education, the program must be available freely to any child who needs that program, without “distinction or preference on account of race, color, caste, or sex.”

2. Does either article I, section 12 of the Washington Constitution or the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution constrain the state’s ability to create a basic education program of early learning for only at-risk children from low-income families?

A basic education program of early learning only for children from low-income families could be implemented without violating either article I, section 12 or the Fourteenth Amendment, if it can be demonstrated that the use of family income to determine eligibility for the program is rationally related to the program’s objective: providing an early learning program to children who otherwise are at risk of educational failure. Absent a demonstration that family income is rationally related to educational risk, there is no rational basis for concluding that children who are at risk of educational failure are being served.

The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Under the Equal Protection Clause, the state may not “deny to any person within its jurisdiction the equal protection of the laws.” A statute that is challenged under the Equal Protection Clause ordinarily is upheld if it is rationally related to a legitimate government purpose. See *Kadrmas v. Dickinson Pub. Schs.*, 487 U.S. 450, 458 (1988). If the statute

interferes with a “fundamental right” or discriminates against a “suspect class,” an equal protection challenge triggers strict scrutiny, under which the statute must be supported by a compelling government interest and distinctions drawn in the statute must be necessary to further the statute’s purpose. See *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 17 (1973).

Neither the United States Supreme Court nor the Washington Supreme Court has held that education is a fundamental right that should trigger strict scrutiny when the government interferes with an individual’s access to it. The United States Supreme Court has explicitly rejected that proposition. See *Kadrmas*, 487 U.S. at 458 (citing *Plyler v. Doe*, 457 U.S. 202, 223 (1982); *San Antonio Indep. Sch. Dist.*, 411 U.S. at 16, 33–36). Although the Washington Supreme Court has held that article IX, section 2 imposes on the state a “fundamental duty” to create a common school system, *Tunstall*, 141 Wn.2d at 221, the Court has not translated that duty into a “fundamental right to education” that could be asserted in an equal protection challenge, explaining that such an abstract right, taken to its logical extreme, improperly “would subject *all* legislation involving *education* to strict scrutiny.” *Tunstall*, 141 Wn.2d at 226 n.21.

To qualify as a suspect class for purposes of an equal protection analysis, the class must have suffered a history of discrimination; have as the characteristic defining the class an obvious, immutable trait that frequently bears no relation to ability to perform or contribute to society; and show that it is a minority or politically powerless class. *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440–41 (1985); *American Legion Post 149 v. Dep’t of Health*, 164 Wn.2d 570, 609 n.31, 192 P.3d 306 (2008). Race, alienage, and national origin are examples of suspect classifications. *City of Cleburne*, 473 U.S. at 440; *American Legion Post 149*, 164 Wn.2d at 609. Accordingly, where an early learning program is made available to children who are at risk of educational failure, no suspect class is implicated that would raise an equal protection concern. Even where the eligibility is determined using family income as a proxy for educational risk, as in SB 5444, a successful equal protection challenge would be unlikely since socioeconomic condition—whether high or low—is not a suspect class. *Kadrmas*, 487 U.S. at 458 (citing *Ortwein v. Schwab*, 410 U.S. 656, 660 (1973)); *Bowman v. Waldt*, 9 Wn. App. 562, 569, 513 P.2d 559 (1973).⁴

It, therefore, appears that the contemplated early learning program does not interfere with a judicially-recognized fundamental right, and implicates no suspect class. Accordingly, rational basis review would govern an equal protection challenge, under which a legislatively-established

⁴ Although the Washington Supreme Court has noted the possibility that a classification based on wealth “may form a semi-suspect class,” it has held that more is required to justify even an intermediate level of scrutiny. *In re the PRP of Runyan*, 121 Wn.2d 432, 853 P.2d 424 (1993). The Court there explained that “intermediate scrutiny will be applied only if the statute implicates both an important right and a semi-suspect class not accountable for its status.” *Id.* at 448. Where, as in SB 5444, the target class (poor children) is given assistance (access to any early learning program), a person outside the target class would have difficulty demonstrating he or she is in a suspect class (or semi-suspect class) under the criteria identified in *City of Cleburne*, 473 U.S. at 440–41, and *American Legion Post 149*, 164 Wn.2d at 609 n.31 (history of discrimination; irrelevant defining trait; political powerlessness).

program in which eligibility criteria are rationally related to legitimate educational interests would be accorded a strong presumption of validity and likely would survive an equal protection challenge under the Fourteenth Amendment. See generally *Heller v. Doe*, 509 U.S. 312, 319–20 (1993) (a classification involving neither fundamental rights nor a suspect class is accorded a strong presumption of validity and cannot run afoul of the Equal Protection Clause if there is a rational relationship between any disparity of treatment and some legitimate governmental purpose). See also *American Legion Post 149*, 164 Wn.2d at 608–09; *Andersen v. King Cy.*, 158 Wn.2d 1, 31, 138 P.3d 963 (2006) (plurality) (citing *Heller*, 509 U.S. at 319).⁵

Article I, section 12 of the Washington Constitution. Article I, section 12 provides that “[n]o law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations.” Where the Equal Protection Clause is concerned with the discriminatory *deprivation* of rights to classes of persons, article I, section 12 is concerned with the discriminatory *granting* of rights to some classes to the disadvantage of others. *Grant Cy. Fire Prot. Dist. 5 v. City of Moses Lake*, 150 Wn.2d 791, 807–09, 83 P.3d 419 (2004); accord *Madison v. State*, 161 Wn.2d 85, 96–97, 163 P.3d 757 (2007) (plurality). Article I, section 12 is analyzed independently from the federal Equal Protection Clause. *Grant Cy.*, 150 Wn.2d at 805–11.

The contours of the analysis used to assess alleged violations of article I, section 12 are not yet fully developed. See *Madison*, 161 Wn.2d at 95 (plurality); *Andersen*, 158 Wn.2d at 127 (Chambers, J., concurring in dissent). It is clear, however, that the only “privileges” addressed in article I, section 12 are those that implicate a fundamental right belonging to citizens of the state by reason of their state citizenship. *American Legion Post 149*, 164 Wn.2d at 607; *Grant Cy. Fire Prot. Dist. 5*, 150 Wn.2d at 812–13. A right to education has not been identified as a fundamental right of citizenship for purposes of article I, section 12. See *American Legion Post 149*, 164 Wn.2d at 607; *Grant Cy. Fire Prot. Dist. 5*, 150 Wn.2d at 813; *State v. Vance*, 29 Wash. 435, 458, 70 P. 34 (1902).⁶

⁵ Nor may a statute be challenged based upon an argument that it is not “narrowly tailored” to serve its purpose when the statute is not subject to strict scrutiny. See *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. 1*, 551 U.S. 701, 783 (2007) (Kennedy, J., concurring) (applying the “narrow tailoring” requirement only to statutes subject to strict scrutiny).

⁶ In a case alleging sex discrimination in access to interscholastic sports teams, the Court suggested in dictum that in Washington there is a fundamental right to education free from discrimination:

The Supreme Court of Washington has not yet expressly held that education free of discrimination based upon sex is a fundamental right within the meaning of Const. art. 1, § 12 so as to call for strict scrutiny of a classification claimed to infringe upon that right. That in Washington, education (physical and cultural), free from discrimination based on sex, is a fundamental constitutional right, is a conclusion properly drawn from Const. art. 9, § 1 adopted in 1889.

Darrin v. Gould, 85 Wn.2d 859, 869–70, 540 P.2d 882 (1975). The quoted passage is dictum, however, because the Court ultimately decided the case based on article XXXI, Washington’s equal rights amendment. *Id.* at 870, 877.

Where no fundamental right of citizenship is at issue, Washington courts follow federal equal protection analysis to decide whether a violation of article I, section 12 has occurred. *Madison*, 161 Wn.2d at 97–98 (plurality); *Andersen*, 158 Wn.2d at 9 (plurality). As explained above, rational basis review is appropriate here, under which a legislatively-established program in which eligibility criteria are rationally related to legitimate educational interests would be accorded a strong presumption of validity and likely would survive a challenge under article I, section 12.⁷

We conclude that under existing case law, the basic education program of early learning described in SB 5444 probably would not be subjected to strict scrutiny under article I, section 12 of the Washington Constitution or the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, because there is no “fundamental right to education” recognized by either the United States Supreme Court or the Washington Supreme Court, and because neither Court has recognized economic status as a suspect class. Accordingly, the primary constraint imposed by article I, section 12 and the Equal Protection Clause is the burden that the state must meet in a rational basis review: The classification must be rationally related to the legitimate educational interests served by the program. In other words, if family income is used to determine eligibility for the program, that basis for eligibility must be rationally related to the program’s objective: providing an early learning program to children who otherwise are at risk of educational failure.

3. Some existing state early learning grants are provided to sectarian organizations under article I, section 11 of the Washington Constitution. If the Legislature were to include an early learning program for at-risk, low-income children ages three and four in the definition of “basic education,” would the constitutionality of such a program be assessed instead under article IX, section 4 of the Washington Constitution?

If an early learning program were included as part of “basic education” in Washington, it would have to comply with article IX, section 4 of the Washington Constitution, but such inclusion would not release the program from the requirements of article I, section 11. Rather, the new program would be subject to both article I, section 11 and article IX, section 4.

⁷ In a due process analysis, the Washington Supreme Court stated that courts “should be reluctant to identify new fundamental rights because, in doing so, a matter is effectively placed ‘outside the arena of public debate and legislative action.’” *American Legion Post 149*, 164 Wn.2d at 600 (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997)). If the Court nevertheless were to find that Washingtonians have a fundamental right to education by reason of their state citizenship, the early learning program described in SB 5444 might be considered a “privilege” under article I, section 12, because it would be part of basic education. If that program were subjected to strict scrutiny, the state presumably would have to show that eligibility based on family income is precisely tailored to serve the compelling educational interest served by the early education program.

All Washington state programs expending public funds are subject to the prohibition in article I, section 11 of the Washington Constitution, which provides that “[n]o public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment[.]” This provision is violated if public money or property is transferred or made available for a religious purpose. *State ex rel. Gallwey v. Grimm*, 146 Wn.2d 445, 455–66, 48 P.3d 274 (2002) (citing *Malyon v. Pierce Cy.*, 131 Wn.2d 779, 799–800, 935 P.2d 1272 (1997)).

Programs that are part of the system of public schools are subject to article IX, section 4, as well as article I, section 11. *Gallwey*, 146 Wn.2d at 455–66. Article IX, section 4 of the Washington Constitution requires that “[a]ll schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.” By expanding the definition of “basic education” to include an early learning program for at-risk, low-income children, the Legislature effectively would make such a program part of the “general and uniform system of public schools” referenced in article IX, section 2 of the Washington Constitution.⁸

Article I, section 11 and article IX, section 4 do not operate in isolation from one another. Both sections arose from the same “driving concern of the state constitutional convention [regarding] religious influence in, and control over, public education.” *Malyon*, 131 Wn.2d at 794. As explained in *State ex rel. Dearle v. Frazier*, 102 Wash. 369, 375, 173 P. 35 (1918), the two provisions operate together to “prevent the teaching of any of the beliefs, creeds, doctrines, opinions, or dogmas of any sect” in the public school system and to “prevent the appropriation of money for parochial and denominational schools[.]”

4. If the answer to question 3 is yes, would article IX, section 4 of the Washington Constitution prohibit the granting or appropriation of state funds to sectarian organizations?

Because article I, section 11 and article IX, section 4 of the Washington Constitution both apply to programs that are part of “basic education” in Washington, we turn to your question whether article IX, section 4 prohibits the granting or appropriation of state funds to sectarian organizations in support of an the early learning program described in SB 5444. Article IX, section 4, read together with article I, section 11, prohibits the granting or appropriation of public funds to support religious instruction or any basic education program that is subject to sectarian control or influence. Consistent with these provisions, public funds may be granted or

⁸ See *School Dist. 20, Spokane Cy.*, 51 Wash. at 504 (“common school,” within meaning of article IX, section 2 is one that is common to all children of proper age and capacity, and which is free and subject to, and under control of, qualified voters of the school district); *Litchman v. Shannon*, 90 Wash. 186, 191, 155 P. 783 (1916) (“public schools” are schools established under the laws of the state, maintained at public expense by taxation, and open without charge to all children in the district); see also *McGowan*, 148 Wn.2d at 293 (holding implicitly that basic education is to be defined by reference to types of “educational services” or “instruction”).

appropriated for the operation of early learning programs by sectarian organizations only if the programs remain free of sectarian control or influence and the funds are not used for a religious purpose. Factors useful in identifying sectarian control or influence are presented in the cases discussed below.

Article IX, section 4 of the Washington Constitution imposes a strict separation of religion and public education. In *Weiss v. Bruno*, 82 Wn.2d 199, 509 P.2d 973 (1973), *overruled on other grounds by Gallwey*, 146 Wn.2d at 455–66,⁹ the Court applied a two-part test for determining whether article IX, section 4 was violated: (1) Does the challenged program or enactment support the school or school program in question with any public funds; and (2) if so, is the school or school program under sectarian control or influence? *Weiss*, 82 Wn.2d at 206–09. If the answer to both questions is yes, the challenged program or enactment violates article IX, section 4. *Id.*

Your question assumes that state funds would be granted or appropriated to sectarian organizations to carry out the early learning program and that the early learning program would be part of the state's program of basic education. Consequently, the answer to the first *Weiss* inquiry is yes: The early learning program described in SB 5444 would be supported by public funds. Although public support is assumed here, we note that the Court in *Weiss* took a broad view of what constitutes “support,” holding that “[a]ny use of public funds that benefits schools under sectarian control or influence—regardless of whether that benefit is characterized as ‘indirect’ or ‘incidental’—violates this provision [article IX, section 4].” *Weiss*, 82 Wn.2d at 211; see also *Mitchell v. Consol. Sch. Dist. 201*, 17 Wn.2d 61, 66–67, 135 P.2d 79 (1943) (statute providing free transportation for school children attending sectarian schools violates article IX, section 4 and article I, section 11 “unless it may be said that the transportation of pupils to and from the [sectarian] school is of no benefit to the school itself”).

Because public support for the early learning program described in SB 5444 is assumed, consistency with article IX, section 4 therefore depends on the answer to the second *Weiss* inquiry: whether individual early learning programs established under SB 5444 are free from sectarian control or influence. *Weiss*, 82 Wn.2d at 208–09. Sectarian control may be manifest, as it was in *Weiss*, where the schools at issue were owned and operated by a religious institution and under the control of parish pastors. *Id.* at 209. In less obvious situations, Washington courts have not set forth a list of specific factors for determining whether a school or program is free from sectarian control or influence, but the factual analysis in *Weiss* suggests some relevant requirements that must be satisfied to find that a particular program is not under sectarian control or influence: (1) The program and its curriculum may not provide instruction in religion or religious practice; (2) Devotional religious symbols or items may not be displayed in the room(s) used for the program; (3) The program may not discriminate against students or staff based on

⁹ In *Gallwey*, the Court stated “[n]othing in today’s decision is intended to disturb this court’s holding in *Weiss* as it relates to common schools.” *Gallwey*, 146 Wn.2d at 466.

religion or sect; (4) The content of the program and its curriculum may not be determined by a religious institution or its representatives or leaders. *Weiss*, 82 Wn.2d at 209–11. *Weiss* does not state or imply that these are exclusive or comprehensive factors in determining whether a school or program is under sectarian influence or control; they merely reflect the facts in the record considered in that particular case. Under other facts and circumstances, additional factors or different factors could be relevant.

Your question assumes state funds would be granted or appropriated to sectarian organizations. It might be possible to establish standards and limitations to ensure that individual early learning programs operated by those organizations are free from sectarian control or influence. Such standards and limitations incorporated into SB 5444 or a similar bill could deflect a facial challenge under article IX, section 4.¹⁰ As we noted above, the factors identified in *Weiss* could be useful in developing statutory standards and limitations, but that list of factors is neither complete nor exclusive.

Even if SB 5444 or a similar bill including statutory standards and limitations were enacted and withstood a facial challenge, specific grants or appropriations to sectarian organizations would be subject to as-applied challenges alleging a violation of article IX, section 4. Such a challenge would require a fact-specific analysis of the structure and operation of the sectarian organization and the particular early learning program operated by that organization, and the conditions imposed on the organization and enforced by the state.

Consequently, we cannot advise you that the granting or appropriation of state funds to sectarian organizations for the purposes described in SB 5444 can be accomplished in compliance with article IX, section 4. Compliance ultimately cannot be determined without analysis of the specific facts and circumstances.

- 5. Under article III, section 22 of the Washington Constitution, the Superintendent of Public Instruction supervises all matters pertaining to public schools. If the Legislature were to pass legislation that replaced the current Early Childhood Education and Assistance Program, as applied to at-risk children, with a new basic education program of early learning, would the new program need to be administered by the Office of the Superintendent of Public Instruction?**

¹⁰ The term “facial challenge” is used to describe a lawsuit in which a plaintiff contends that a particular law is unconstitutional in all possible applications. *Washington State Grange v. Washington State Republican Party*, 128 S. Ct. 1184, 1190 (2008). In such a case, a plaintiff can succeed only if there are no circumstances under which the law could be constitutionally applied, and the Court will not speculate about hypothetical or imaginary cases in which unconstitutional results may be possible. *Id.* A statute that is constitutional on its face might still be challenged as unconstitutional in specific applications. *Id.* at 1191. A constitutional challenge to a specific application of a law is called an “as-applied challenge.”

A new basic education program of early learning must be supervised by the Superintendent of Public Instruction; however, the Legislature may create an agency or institution to administer the program under the Superintendent's supervision.

Article III, section 22 of the Washington Constitution provides, in part, that "[t]he superintendent of public instruction shall have supervision over all matters pertaining to public schools, and shall perform such specific duties as may be prescribed by law." As indicated above, by defining "basic education" to include an early learning program, the Legislature is defining the state's public school system to include an early learning program. Because the Superintendent of Public Instruction is designated in the constitution as the supervisor of the state's public school system, the Superintendent necessarily would be the supervisor of the early learning program as well. As we observed in an earlier opinion, this constitutional authority of the Superintendent cannot be made subordinate to that of another officer or body. AGO 1998

No. 6 at 4 (citing AGO 1961-62 No. 2). Nor may the authority to supervise early learning, if it is defined as an element of basic education, be vested in any other officer or body not under the Superintendent's supervision. AGO 1998 No. 6 at 4.

The constitution does not, however, limit the Legislature's authority to design the organizational structure under which the public education system is administered. See *Washington State Farm Bureau Fed'n*, 162 Wn.2d at 290 ("It is a fundamental principle of our system of government that the Legislature has plenary power to enact laws, except as limited by our state and federal constitutions."). While article III, section 22 precludes the Legislature from assigning supervisory authority over basic education to any other officer or body besides the Superintendent, it otherwise leaves "the Legislature . . . quite free to shape the state's education system as it may choose, and to define the Superintendent's role within that system." AGO 1998

No. 6 at 4. Accordingly, article III, section 22 does not preclude the Legislature from creating an agency or department to *administer* a new basic education program of early learning, so long as the Superintendent retains his or her constitutional authority to *supervise* the program.

- 6. If the Legislature were to create a new basic education program of early learning that replaced the Early Childhood Education and Assistance Program, would the previously-mentioned constitutional provisions permit the state to maintain currently-established waiting lists of eligible students for the new basic education early learning program? Would the answer be different if the state currently does not have the building or staff capacity to provide an early learning program for all eligible children?**

Since the Legislature would be establishing a new program, Washington courts would be likely to recognize some need for time to establish the program and its resources, but the answer to both questions ultimately would depend on the facts. In *Seattle School District 1*, 90 Wn.2d at 537-38, the Court evidenced a willingness to give latitude and time to a new educational program established by the Legislature. This willingness is consistent with the Court's recognition that the Legislature establishes the means for discharging its statutory duty

under article IX, sections 1 and 2 of the Washington Constitution. *Seattle Sch. Dist. 1*, 90 Wn.2d at 520.

Article IX, section 1 requires that the Legislature define “basic education” and support it with ample funding from dependable and regular tax sources. *McGowan*, 148 Wn.2d at 283–84; *Seattle Sch. Dist. 1*, 90 Wn.2d at 519–22. As explained above, once the Legislature includes an early learning program within the definition of “basic education,” article IX, section 1 mandates that it be provided with ample funding. Whether currently-established waiting lists could be maintained consistent with article IX, section 1 likely would depend on why they are maintained and whether all children ultimately are served. For example, if children on waiting lists did not receive early learning instruction (whether because of inadequate funding, building or staff shortages, or some other reason), a violation of article IX, section 1 would be more likely than if the lists were used to allocate students among early learning programs with different start dates, but with every qualified student eventually being served.

Article IX, section 2 requires the Legislature to “provide for a general and uniform system of public schools.” As explained in *Parents Involved in Community Schools*, 149 Wn.2d at 672–74, this section was intended to ensure a free, statewide system of nonsectarian schools with uniform content and administration of education. The focus is on the uniformity in the educational program provided, not in the detail of funding or administration, and the Court presumes that program is constitutional. See *Federal Way Sch. Dist. 210*, 2009 WL 3766092 at *4–5, ¶¶ 18–24. A challenger conceivably could overcome that presumption of constitutionality if, for example, use of the existing waiting lists resulted in a significant disparity of educational opportunity or content across the state, or if building or staff shortages persisted over a long enough time period; again, the success of any such challenge would depend on the facts.

If access to a basic education program of early learning were limited by building or staff capacity, the legislative establishment of a reasonable plan to overcome or correct the limitations could be consistent with sections 1 and 2 of article IX of the Washington Constitution. In a challenge under article IX, sections 1 and 2, the Court deferred to the Legislature’s evolving formulas for funding basic education. *Federal Way Sch. Dist. 210*, 2009 WL 3766092 at *4–5. Similarly, in the equal protection context, the Court in *Dandridge v. Williams*, 397 U.S. 471, 487 (1970), noted that a state should not have to “choose between attacking every aspect of a problem or not attacking the problem at all.” Assuming, therefore, that the Legislature established a plan for providing the building and staff capacity in a reasonable amount of time, and assuming there were not persistent disparities among school districts as to availability of the program, the contemplated early learning program probably would withstand a constitutional challenge premised on alleged building or staff shortages.¹¹

¹¹ It may be that the use of private facilities, including those owned or operated by sectarian organizations, and the operation of early learning programs by sectarian organizations are means of responding to inadequate building and staff capacity. However, inadequate capacity cannot justify or excuse noncompliance with article I, section 11 and article IX, section 4, as we explained in response to your fourth question. See *Weiss*, 82 Wn.2d at

7. If the Legislature were to create a new basic education program of early learning, do the constitutional requirements for basic education require that teachers in the early learning program be certified and have completed an education degree program?

No. The qualifications for teachers are not set in the Washington Constitution, but only in statute. See RCW 28A.410. The constitution does not require certification, and does not restrict the Legislature's authority to set qualifications in statute. See Wash. Const. art. IX (providing for a system of common schools without specifying required qualifications for teachers); *Cedar Cy. Comm. v. Munro*, 134 Wn.2d 377, 386, 950 P.2d 446 (1998) (explaining that the Legislature's authority is unrestrained except as limited by the constitution). Teacher qualifications for early learning are accordingly within the Legislature's authority to determine.

8. If the Legislature were to include transportation to and from school as part of the K-12 basic education program, would it also have to provide transportation to students who participate in a basic education program of early learning?

We have found no controlling appellate decision in Washington holding, as a matter of constitutional law, that if transportation is provided for one part of basic education, it must be provided for all parts of basic education. However, the Court in *Lane v. Ocosta School District* 172, 13 Wn. App. 697, 703, 537 P.2d 1052 (1975), implied that there may be a duty to provide transportation to school if a student otherwise would be deprived of his or her right to attend school. Similarly, on remand from *Seattle School District 1*, 90 Wn.2d 476, the trial court ruled that four programs outside the basic education act were part of the state's basic education duty—special education, remedial assistance, bilingual instruction, and some transportation—because they were needed to provide some students access to basic education. *Seattle Sch. Dist. 1 v. State*, Thurston County Superior Court No. 81-2-1713-1. Under the reasoning of these courts, transportation might be required where necessary to provide access to an early learning program that has been made part of the state's program of basic education.

If a court were asked to decide whether the Washington Constitution requires comparable transportation for children in a basic education program of early learning where transportation already is provided to students in the K-12 basic education program, we would expect it to apply the principle articulated in *Lane*—that transportation to school is mandated for children in a basic education program of early learning where they otherwise would be unable to attend the program, thereby depriving them of a component of basic education. The Legislature has substantial discretion in determining which transportation services must be provided to

206–07 (article IX, section 4 does not permit even a “de minimis” violation). See also *Perry v. Sch. Dist. 81, Spokane*, 54 Wn.2d 886, 896, 344 P.2d 1036 (1959) (public school teachers' mere distribution of registration cards for voluntary, off-campus religious instruction held to be use of school facilities supported by public funds to promote a religious program in violation of article IX, section 4).

students. Presumably, the Legislature has exercised that discretion based upon an assessment of student need for transportation services; applying the *Lane* principle, transportation for children attending a basic education program of early learning should be provided if their need for transportation is comparable to that of K-12 students.

We trust the foregoing will be useful to you.

ROBERT M. MCKENNA
Attorney General

Alan D. Copsey
Deputy Solicitor General

wros

APPENDIX

TABLE OF STATE CONSTITUTIONAL PROVISIONS CITED IN THIS MEMORANDUM

Citation and Subject	Text
Art. I, § 11 Religious Freedom	Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one shall be molested or disturbed in person or property on account of religion; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace and safety of the state. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment: PROVIDED, HOWEVER, That this article shall not be so construed as to forbid the employment by the state of a chaplain for such of the state custodial, correctional, and mental institutions, or by a county's or public hospital district's hospital, health care facility, or hospice, as in the discretion of the legislature may seem justified. No religious qualification shall be required for any public office or employment, nor shall any person be incompetent as a witness or juror, in consequence of his opinion on matters of religion, nor be questioned in any court of justice touching his religious belief to affect the weight of his testimony.
Art. I, § 12 Privileges and Immunities	No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations.
Art. III, § 22 Superintendent of Public Instruction; Duties and Salary	The superintendent of public instruction shall have supervision over all matters pertaining to public schools, and shall perform such specific duties as may be prescribed by law. He shall receive an annual salary of twenty-five hundred dollars, which may be increased by law, but shall never exceed four thousand dollars per annum.
Art. IX, § 1 Education: Preamble	It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.
Art. IX, § 2 Public School System	The legislature shall provide for a general and uniform system of public schools. The public school system shall include common schools, and such high schools, normal schools, and technical schools as may hereafter be established. But the entire revenue derived from the common school fund and the state tax for common schools shall be exclusively applied to the support of the common schools.
Art. IX, § 4 Sectarian Control or Influence Prohibited	All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.

Appendix B
Substitute Senate Bill 6759

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6759

Chapter 234, Laws of 2010

61st Legislature
2010 Regular Session

VOLUNTARY PROGRAM OF EARLY LEARNING--PLAN

EFFECTIVE DATE: 06/10/10

Passed by the Senate March 11, 2010
YEAS 48 NAYS 0

BRAD
OWEN
President of the Senate

Passed by the House March 10, 2010
YEAS 81 NAYS 16

FRANK
CHOPP
**Speaker of the House of
Representatives**

Approved March 29, 2010, 2:15
p.m.

CHRISTINE GREGOIRE
**Governor of the State of
Washington**

CERTIFICAT
E

I, Thomas Hoemann, Secretary
of the Senate of the State of
Washington, do hereby certify
that the attached is **SUBSTITUTE
SENATE BILL 6759** as passed by
the Senate and the House of
Representatives on the dates
hereon set forth.

THOMAS
HOEMANN
Secretary

FILED
March 30,
2010

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6759

AS AMENDED BY THE HOUSE

Passed Legislature - 2010 Regular Session

State of Washington

61st Legislature

2010 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by Senators Kauffman, Oemig, Prentice, and Kline)

READ FIRST TIME 02/04/10.

1 AN ACT Relating to a plan for a voluntary program of early
2 learning; amending RCW 43.215.090 and 28A.290.010; and creating new
3 sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The department of early learning, the
6 superintendent of public instruction, and thrive by five's joint early
7 learning recommendations to the governor, and the quality education
8 council's January 2010 recommendations to the legislature both
9 suggested that a voluntary program of early learning should be included
10 within the overall program of basic education. The legislature intends
11 to examine these recommendations and Attorney General Opinion Number 8
12 (2009) through the development of a working group to identify and
13 recommend a comprehensive plan.

14 NEW SECTION. **Sec. 2.** (1) Beginning April 1, 2010, the office of
15 the superintendent of public instruction, with assistance and support
16 from the department of early learning, shall convene a technical
17 working group to develop a comprehensive plan for a voluntary program

1 of early learning. The plan shall examine the opportunities and
2 barriers of at least two options:

3 (a) A program of early learning under the program of basic
4 education; and

5 (b) A program of early learning as an entitlement, either
6 statutorily or constitutionally protected.

7 (2) The working group shall, at a minimum, include in the plan the
8 following recommendations for each option:

9 (a) Criteria for eligible children;

10 (b) Program standards, including, but not limited to, direct
11 services to be provided, number of hours per school year, teacher
12 qualifications, and transportation requirements;

13 (c) Performance measures;

14 (d) Criteria for eligible providers, specifying whether or not they
15 may be:

16 (i) Approved, certified, or licensed by the department of early
17 learning; and

18 (ii) Public, private, nonsectarian, or sectarian organizations;

19 (e) Governance responsibilities for the superintendent of public
20 instruction and the department of early learning;

21 (f) Funding necessary to implement a voluntary program of early
22 learning, including, but not limited to, early learning teachers,
23 professional development, facilities, and technical assistance;

24 (g) A timeline for implementation; and

25 (h) The early childhood education and assistance program's role in
26 the new program of early learning.

27 (3) While developing the plan, the working group shall review early
28 learning programs in Washington state, including the early childhood
29 education and assistance program and the federal head start program, as
30 well as programs in other states.

31 (4) The working group shall be composed of:

32 (a) At least one representative each from the following: The
33 department of early learning, the office of the superintendent of
34 public instruction, the nongovernmental private-public partnership
35 created in RCW 43.215.070, and the office of the attorney general;

36 (b) Two members of the early learning advisory council established
37 in RCW 43.215.090 to be appointed by the council; and

1 (c) Additional stakeholders with expertise in early learning to be
2 appointed by the early learning advisory council.

3 (5) The working group may convene advisory subgroups on specific
4 topics as necessary to assure participation and input from a broad
5 array of diverse stakeholders.

6 (6) The working group shall be monitored and overseen by the
7 quality education council created in RCW 28A.290.010. The working
8 group shall submit a progress report by July 1, 2011, and final report
9 with the plan by November 1, 2011, to the early learning advisory
10 council and the quality education council.

11 **Sec. 3.** RCW 43.215.090 and 2007 c 394 s 3 are each amended to read
12 as follows:

13 (1) The early learning advisory council is established to advise
14 the department on statewide early learning (~~((community needs and~~
15 ~~progress))~~ issues that would build a comprehensive system of quality
16 early learning programs and services for Washington's children and
17 families by assessing needs and the availability of services, aligning
18 resources, developing plans for data collection and professional
19 development of early childhood educators, and establishing
20 key performance measures.

21 (2) The council shall work in conjunction with the department to
22 develop a statewide early learning plan that (~~((crosses systems and~~
23 ~~sectors to promote))~~ guides the department in promoting alignment of
24 private and public sector actions, objectives, and resources, and (~~((to~~
25 ~~ensure))~~ ensuring school readiness.

26 (3) The council shall include diverse, statewide representation
27 from public, nonprofit, and for-profit entities. Its membership shall
28 reflect regional, racial, and cultural diversity to adequately
29 represent the needs of all children and families in the state.

30 (4) Council members shall serve two-year terms. However, to
31 stagger the terms of the council, the initial appointments for twelve
32 of the members shall be for one year. Once the initial one-year to
33 two-year terms expire, all subsequent terms shall be for two years,
34 with the terms expiring on June 30th of the applicable year. The terms
35 shall be staggered in such a way that, where possible, the terms of
36 members representing a specific group do not expire simultaneously.

1 (5) The council shall consist of not more than (~~twenty-five~~)
2 twenty-three members, as follows:

3 (a) The governor shall appoint at least one representative from
4 each of the following: The department, the office of financial
5 management, the department of social and health services, the
6 department of health, the higher education coordinating board, and the
7 state board for community and technical colleges;

8 (b) One representative from the office of the superintendent of
9 public instruction, to be appointed by the superintendent of public
10 instruction;

11 (c) The governor shall appoint (~~at least~~) seven leaders in early
12 childhood education, with at least one representative with experience
13 or expertise in each of the areas such as the following (~~areas~~):
14 Children with disabilities, the K-12 system, family day care providers,
15 and child care centers;

16 (d) Two members of the house of representatives, one from each
17 caucus, and two members of the senate, one from each caucus, to be
18 appointed by the speaker of the house of representatives and the
19 president of the senate, respectively;

20 (e) Two parents, one of whom serves on the department's parent
21 advisory council, to be appointed by the governor;

22 (f) (~~Two~~) One representative(~~s~~) of the private-public
23 partnership created in RCW 43.215.070, to be appointed by the
24 partnership board;

25 (g) One representative designated by sovereign tribal governments;
26 and

27 (h) One representative from the Washington federation of
28 independent schools.

29 (6) The council shall be cochaired by one representative of a state
30 agency and one nongovernmental member, to be elected by the council for
31 two-year terms.

32 (7) The council shall appoint two members and stakeholders with
33 expertise in early learning to sit on the technical working group
34 created in section 2, chapter . . ., Laws of 2010 (section 2 of the
35 act).

36 (8) Each member of the board shall be compensated in accordance
37 with RCW 43.03.240 and reimbursed for travel expenses incurred in

1 carrying out the duties of the board in accordance with RCW 43.03.050
2 and 43.03.060.

3 ~~((48))~~ (9) The department shall provide staff support to the
4 council.

5 **Sec. 4.** RCW 28A.290.010 and 2009 c 548 s 114 are each amended to
6 read as follows:

7 (1) The quality education council is created to recommend and
8 inform the ongoing implementation by the legislature of an evolving
9 program of basic education and the financing necessary to support such
10 program. The council shall develop strategic recommendations on the
11 program of basic education for the common schools. The council shall
12 take into consideration the capacity report produced under RCW
13 28A.300.172 and the availability of data and progress of implementing
14 the data systems required under RCW 28A.655.210. Any recommendations
15 for modifications to the program of basic education shall be based on
16 evidence that the programs effectively support student learning. The
17 council shall update the statewide strategic recommendations every four
18 years. The recommendations of the council are intended to:

19 (a) Inform future educational policy and funding decisions of the
20 legislature and governor;

21 (b) Identify measurable goals and priorities for the educational
22 system in Washington state for a ten-year time period, including the
23 goals of basic education and ongoing strategies for coordinating
24 statewide efforts to eliminate the achievement gap and reduce student
25 dropout rates; and

26 (c) Enable the state of Washington to continue to implement an
27 evolving program of basic education.

28 (2) The council may request updates and progress reports from the
29 office of the superintendent of public instruction, the state board of
30 education, the professional educator standards board, and the
31 department of early learning on the work of the agencies as well as
32 educational working groups established by the legislature.

33 (3) The chair of the council shall be selected from the
34 councilmembers. The council shall be composed of the following
35 members:

36 (a) Four members of the house of representatives, with two members

1 representing each of the major caucuses and appointed by the speaker of
2 the house of representatives;

3 (b) Four members of the senate, with two members representing each
4 of the major caucuses and appointed by the president of the senate; and

5 (c) One representative each from the office of the governor, office
6 of the superintendent of public instruction, state board of education,
7 professional educator standards board, and department of early
8 learning.

9 (4) In the 2009 fiscal year, the council shall meet as often as
10 necessary as determined by the chair. In subsequent years, the council
11 shall meet no more than four times a year.

12 (5) (a) The council shall submit an initial report to the governor
13 and the legislature by January 1, 2010, detailing its recommendations,
14 including recommendations for resolving issues or decisions requiring
15 legislative action during the 2010 legislative session, and
16 recommendations for any funding necessary to continue development and
17 implementation of chapter 548, Laws of 2009.

18 (b) The initial report shall, at a minimum, include:

19 (i) Consideration of how to establish a statewide beginning teacher
20 mentoring and support system;

21 (ii) Recommendations for a program of early learning for at-risk
22 children;

23 (iii) A recommended schedule for the concurrent phase-in of the
24 changes to the instructional program of basic education and the
25 implementation of the funding formulas and allocations to support the
26 new instructional program of basic education as established under
27 chapter 548, Laws of 2009. The phase-in schedule shall have full
28 implementation completed by September 1, 2018; and

29 (iv) A recommended schedule for phased-in implementation of the new
30 distribution formula for allocating state funds to school districts for
31 the transportation of students to and from school, with phase-in
32 beginning no later than September 1, 2013.

33 (6) The council shall submit a report to the legislature by January
34 1, 2012, detailing its recommendations for a comprehensive plan for a
35 voluntary program of early learning. Before submitting the report, the
36 council shall seek input from the early learning advisory council
37 created in RCW 43.215.090.

1 (7) The council shall be staffed by the office of the
2 superintendent of public instruction and the office of financial
3 management. Additional staff support shall be provided by the state
4 entities with representatives on the ~~((committee))~~ council. Senate
5 committee services and the house of representatives office of program
6 research may provide additional staff support.

7 ~~((7))~~ (8) Legislative members of the council shall serve without
8 additional compensation but may be reimbursed for travel expenses in
9 accordance with RCW 44.04.120 while attending sessions of the council
10 or on official business authorized by the council. Nonlegislative
11 members of the council may be reimbursed for travel expenses in
12 accordance with RCW 43.03.050 and 43.03.060.

Passed by the Senate March 11, 2010.

Passed by the House March 10, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

Appendix C
Second Substitute House Bill 2731

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2731

Chapter 231, Laws of 2010

(partial veto)

61st Legislature
2010 Regular Session

VOLUNTARY PRESCHOOL OPPORTUNITIES--AT-RISK CHILDREN

EFFECTIVE DATE: 06/10/10

Passed by the House March 11, 2010
Yeas 70 Nays 27

FRANK CHOPP

**Speaker of the House of
Representatives**

Passed by the Senate March 10, 2010
Yeas 33 Nays 15

BRAD
OWEN

President of the Senate

Approved March 29, 2010, 2:05 p.m.,
with the exception of Section 1
which is
vetoed.

CHRISTINE GREGOIRE

**Governor of the State of
Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk
of the House of
Representatives of the State
of Washington, do hereby
certify that the attached
is **SECOND SUBSTITUTE HOUSE
BILL 2731** as passed by the
House of Representatives and the
Senate on the dates hereon set
forth.

BARBARA
BAKER **Chief
Clerk**

FILED

March 30, 2010

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 2731

AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By House Ways & Means (originally sponsored by Representatives Goodman, Haler, Maxwell, Priest, Kagi, Sullivan, Seaquist, Quall, O'Brien, Jacks, Haigh, Pedersen, Darneille, Kenney, Rolfes, Hunter, Williams, Orwall, Lias, Carlyle, Roberts, Simpson, Walsh, Nelson, Kelley, Dickerson, Appleton, Eddy, Sells, and Morrell)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to implementing a program of early learning for
2 educationally at-risk children; amending RCW 43.215.020 and 43.215.405;
3 adding new sections to chapter 43.215 RCW; adding a new section to
4 chapter 28A.320 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 ***NEW SECTION.** *Sec. 1. The legislature finds that a critical factor*
7 *in the eventual successful outcome of a K-12 education is for students*
8 *to begin school ready, both intellectually and socially, to learn. The*
9 *legislature also finds that, due to a variety of factors, some young*
10 *children need supplemental instruction in preschool to assure that they*
11 *have the opportunity to participate meaningfully and reach the*
12 *necessary levels of achievement in the regular program of basic*
13 *education. The legislature further finds that children who participate*
14 *in high quality preschool programs have improved educational and life*
15 *outcomes and are more likely to graduate from high school and pursue*
16 *higher education, experience successful employment opportunities, and*
17 *have increased earnings. Therefore the legislature intends to create*
18 *a program of early learning that, when fully implemented, shall be an*
19 *entitlement program for eligible children.*

1 *The legislature also finds that the state early childhood education*
2 *and assistance program was established to help children from low-income*
3 *families be prepared for kindergarten, and that the program has been a*
4 *successful model for achieving that goal. Therefore, the legislature*
5 *intends that the first phase of implementing the entitlement program of*
6 *early learning shall be accomplished by utilizing the program standards*
7 *and eligibility criteria in the early childhood education and*
8 *assistance program. The legislature also intends that the*
9 *implementation of subsequent phases of the program established by the*
10 *ready for school act of 2010 will be aligned with the implementation of*
11 *the state's all-day kindergarten program in order to maximize the gains*
12 *resulting from investments in the two programs.*

**Sec. 1 was vetoed. See message at end of chapter.*

13 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
14 section apply throughout this chapter unless the context clearly
15 requires otherwise.

16 (1) "Community-based early learning providers" includes for-profit
17 and nonprofit licensed providers of child care and preschool programs.

18 (2) "Program" means the program of early learning established in
19 section 3 of this act for eligible children who are three and four
20 years of age.

21 NEW SECTION. **Sec. 3.** PROGRAM STANDARDS. (1) Beginning September
22 1, 2011, an early learning program to provide voluntary preschool
23 opportunities for children three and four years of age shall be
24 implemented according to the funding and implementation plan in section
25 4 of this act. The program must be a comprehensive program providing
26 early childhood education and family support, options for parental
27 involvement, and health information, screening, and referral services,
28 as family need is determined. Participation in the program is
29 voluntary. On a space available basis, the program may allow
30 enrollment of children who are not otherwise eligible by assessing a
31 fee.

32 (2) The first phase of the program shall be implemented by
33 utilizing the program standards and eligibility criteria in the early
34 childhood education and assistance program.

35 (3) The director shall adopt rules for the following program

1 components, as appropriate and necessary during the phased
2 implementation of the program:

3 (a) Minimum program standards, including lead teacher, assistant
4 teacher, and staff qualifications;

5 (b) Approval of program providers; and

6 (c) Accountability and adherence to performance standards.

7 (4) The department has administrative responsibility for:

8 (a) Approving and contracting with providers according to rules
9 developed by the director under this section;

10 (b) In partnership with school districts, monitoring program
11 quality and assuring the program is responsive to the needs of eligible
12 children;

13 (c) Assuring that program providers work cooperatively with school
14 districts to coordinate the transition from preschool to kindergarten
15 so that children and their families are well-prepared and supported;
16 and

17 (d) Providing technical assistance to contracted providers.

18 NEW SECTION. **Sec. 4.** FUNDING AND STATEWIDE IMPLEMENTATION. (1)

19 Funding for the program of early learning established under this
20 chapter must be appropriated to the department. Allocations must be
21 made on the basis of eligible children enrolled with eligible
22 providers.

23 (2) The program shall be implemented in phases, so that full
24 implementation is achieved in the 2018-19 school year.

25 (3) For the initial phase of the early learning program in school
26 years 2011-12 and 2012-13, the legislature shall appropriate funding to
27 the department for implementation of the program in an amount not less
28 than the 2009-2011 enacted budget for the early childhood education and
29 assistance program. The appropriation shall be sufficient to fund an
30 equivalent number of slots as funded in the 2009-2011 enacted budget.

31 (4) Beginning in the 2013-14 school year, additional funding for
32 the program must be phased in beginning in school districts providing
33 all-day kindergarten programs under RCW 28A.150.315.

34 (5) Funding shall continue to be phased in incrementally each year
35 until full statewide implementation of the early learning program is
36 achieved in the 2018-19 school year, at which time any eligible child
37 shall be entitled to be enrolled in the program.

1 (6) The department and the office of financial management shall
2 annually review the caseload forecasts for the program and, beginning
3 December 1, 2012, and annually thereafter, report to the governor and
4 the appropriate committees of the legislature with recommendations for
5 phasing in additional funding necessary to achieve statewide
6 implementation in the 2018-19 school year.

7 (7) School districts and approved community-based early learning
8 providers may contract with the department to provide services under
9 the program. The department shall collaborate with school districts,
10 community-based providers, and educational service districts to promote
11 an adequate supply of approved providers.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.320
13 RCW to read as follows:

14 For the program of early learning established in section 3 of this
15 act, school districts:

16 (1) Shall work cooperatively with program providers to coordinate
17 the transition from preschool to kindergarten so that children and
18 their families are well-prepared and supported; and

19 (2) May contract with the department of early learning to deliver
20 services under the program.

21 **Sec. 6.** RCW 43.215.020 and 2007 c 394 s 5 are each amended to read
22 as follows:

23 (1) The department of early learning is created as an executive
24 branch agency. The department is vested with all powers and duties
25 transferred to it under this chapter and such other powers and duties
26 as may be authorized by law.

27 (2) The primary duties of the department are to implement state
28 early learning policy and to coordinate, consolidate, and integrate
29 child care and early learning programs in order to administer programs
30 and funding as efficiently as possible. The department's duties
31 include, but are not limited to, the following:

32 (a) To support both public and private sectors toward a
33 comprehensive and collaborative system of early learning that serves
34 parents, children, and providers and to encourage best practices in
35 child care and early learning programs;

1 (b) To make early learning resources available to parents and
2 caregivers;

3 (c) To carry out activities, including providing clear and easily
4 accessible information about quality and improving the quality of early
5 learning opportunities for young children, in cooperation with the
6 nongovernmental private-public partnership;

7 (d) To administer child care and early learning programs;

8 (e) To standardize internal financial audits, oversight visits,
9 performance benchmarks, and licensing criteria, so that programs can
10 function in an integrated fashion;

11 (f) To support the implementation of the nongovernmental private-
12 public partnership and cooperate with that partnership in pursuing its
13 goals including providing data and support necessary for the successful
14 work of the partnership;

15 (g) To work cooperatively and in coordination with the early
16 learning council;

17 (h) To collaborate with the K-12 school system at the state and
18 local levels to ensure appropriate connections and smooth transitions
19 between early learning and K-12 programs; ~~((and))~~

20 (i) To develop and adopt rules for administration of the program of
21 early learning established in section 3 of this act; and

22 (j) Upon the development of an early learning information system,
23 to make available to parents timely inspection and licensing action
24 information through the internet and other means.

25 (3) The department's programs shall be designed in a way that
26 respects and preserves the ability of parents and legal guardians to
27 direct the education, development, and upbringing of their children.
28 The department shall include parents and legal guardians in the
29 development of policies and program decisions affecting their children.

30 **Sec. 7.** RCW 43.215.405 and 2006 c 265 s 210 are each amended to
31 read as follows:

32 Unless the context clearly requires otherwise, the definitions in
33 this section apply throughout RCW 43.215.400 through 43.215.450 and
34 43.215.900 through 43.215.903.

35 (1) "Advisory committee" means the advisory committee under RCW
36 43.215.420.

37 (2) "Department" means the department of early learning.

1 (3) "Eligible child" means a child not eligible for kindergarten
2 whose family income is at or below one hundred ten percent of the
3 federal poverty level, as published annually by the federal department
4 of health and human services, and includes a child whose family is
5 eligible for public assistance, and who is not a participant in a
6 federal or state program providing comprehensive services; a child
7 eligible for special education due to disability under RCW 28A.155.020;
8 and may include children who are eligible under rules adopted by the
9 department if the number of such children equals not more than ten
10 percent of the total enrollment in the early childhood program.
11 Priority for enrollment shall be given to children from families with
12 the lowest income, children in foster care, or to eligible children
13 from families with multiple needs.

14 (4) "Approved programs" means those state-supported education and
15 special assistance programs which are recognized by the department as
16 meeting the minimum program rules adopted by the department to qualify
17 under RCW 43.215.400 through 43.215.450 and 43.215.900 through
18 43.215.903 and are designated as eligible for funding by the department
19 under RCW 43.215.430 and 43.215.440.

20 (5) "Comprehensive" means an assistance program that focuses on the
21 needs of the child and includes education, health, and family support
22 services.

23 (6) "Family support services" means providing opportunities for
24 parents to:

- 25 (a) Actively participate in their child's early childhood program;
26 (b) Increase their knowledge of child development and parenting
27 skills;
28 (c) Further their education and training;
29 (d) Increase their ability to use needed services in the community;
30 (e) Increase their self-reliance.

31 NEW SECTION. Sec. 8. Sections 2 through 4 and 9 of this act are
32 each added to chapter 43.215 RCW.

33 NEW SECTION. Sec. 9. This act may be known as the ready for
34 school act of 2010.

Passed by the House March 11, 2010.

Passed by the Senate March 10, 2010.

Approved by the Governor March 29, 2010, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2010.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 1, Second Substitute House Bill 2731 entitled:

"AN ACT Relating to implementing a program of early learning for educationally at-risk children."

Section 1 indicates the Legislature's intent regarding the future of early learning in our state. The Legislature is undertaking a study of the optimal approach for implementing a voluntary program for early learning in Senate Bill 6759 which I am signing today. I look forward to future legislation implementing the results of that study. Because the language in this section presupposes the outcome of the study called for in Senate Bill 6759, I am vetoing this section.

For this reason, I have vetoed Section 1 of Second Substitute House Bill 2731.

With the exception of Section 1, Second Substitute House Bill 2731 is approved."

Appendix D

Differences and similarities between preschool programs that are included as a part of “basic education” versus programs that are an “entitlement”
(As of June 22, 2011)

A Program under “Basic Education”		An “Entitlement” Program	Current Guidelines ECEAP	Current Guidelines Head Start
Eligibility	<p>- In both a Basic Education program and an Entitlement program, the program could be a “universal program” available to all students of a certain age or a program making only “at-risk” students eligible for these educational services.</p> <p>- However, anything short of a universal program requires objectively-defined and legally-defensible criteria to define <i>risk (as a proxy for educational need)</i>. Assessment tool could be used to determine risk.</p> <p>- Income could be one risk factor. Current income eligibility based on the % above the poverty level are:</p> <ul style="list-style-type: none"> 35 110% (ECEAP) 17 130% (Head Start) 17 185% (Free/Reduced price lunch eligibility) <p>- Additional risk factors would need to be incorporated into child eligibility criteria.</p> <p>- Under both Basic Education and Entitlement, there would be an “entitlement” to participate in the program for eligible students. Thus, the program would likely be required to be available statewide.</p>		<p>Targeted – at risk</p> <p>Age : 3- and 4-year-olds (by August 31 of school year)</p> <p>Income: 110% FPL</p> <p>Up to 10% of enrolled children can be over the income limit, with developmental or env. risk factors</p> <p>Eligible children are prioritized for limited slots: 4-year-olds, lowest incomes, multiple risk factors, foster care, homeless, special education.</p> <p>RCW 43.215.405(5), WAC 170-100-080, ECEAP Performance Standard B-13, B-15</p>	<p>Targeted – at risk</p> <p>Age : 3- to 5-year-olds (by August 31 of school year)</p> <p>Income: 130% FPL</p> <p>Maximum 35% of slots can go to families between 100-130% of FPG. Allows enrollment based on child care subsidy (up to 175% FPL in WA.) Categorical eligibility of children who are homeless or in foster care. Priority to families most in need.</p> <p>Up to 10% can be over income limits.</p>
Transportation	- Required to provide transportation for eligible students who would be unable to participate without transportation.	- Discretionary. One option would be to provide for children who would otherwise be unable to attend or programs could use a portion of a per-child allocation for transportation.	Discretionary - Programs can use a portion of per-child allocation for transportation.	Discretionary - Programs can use a portion of per-child allocation for transportation.
Governance	<p>- Supervised by OSPI. The State Constitution grants OSPI supervisory authority over basic education.</p> <p>- Possible administration scenarios:</p> <ol style="list-style-type: none"> 1) OSPI could administer program 2) OSPI contract with DEL to administer program 3) Administration could be legislatively determined subject to OSPI retaining ultimate supervisory authority 	<p>- No restrictions</p> <p>- Possible administration scenarios</p> <ol style="list-style-type: none"> 1) Supervised by DEL or OSPI 2) Regulated by DEL or OSPI 3) Administered by DEL or OSPI 	<p>DEL contracts with 40 contractors who provide services at 267 sites.</p> <p>Regulated by DEL.</p> <p>RCW, WAC, contractual performance standards.</p> <p>DEL monitors deliverables, electronic data reports, monthly calls, and on-site program reviews.</p> <p>Child care licensing not required when preschool component is in a school or four hours a day or less.</p>	<p>Federal govt. provides grants directly to individual providers within the state.</p> <p>Regulated by federal govt.</p> <p>Federal law, program performance standards, policy memos.</p> <p>Electronic data entry, risk management calls, on site program reviews.</p> <p>Child care licensing not required when preschool component is in a school or four hours a day or less.</p>
Sectarian Influence	<p>- The Washington constitution has two religious establishment clauses:</p> <p>..Article 9, Section 4 of the State Constitution provides, “[a]ll schools maintained or</p>	<p>- Article 9, Section 4 does not apply.</p> <p>- Under Article 1, Section 11, program must only have secular objective and be free of</p>	<p>RCW 43.215.415 Providers must be nonsectarian.</p> <p>ECEAP Performance Standards</p>	

A Program under “Basic Education”	An “Entitlement” Program	Current Guidelines ECEAP	Current Guidelines Head Start
	<p>supported wholly or in part by the public funds shall be forever free from sectarian control or influence.” This has been construed to prohibit basic education funds going to sectarian institutions.</p> <p>.. Article 1, Section 11 of the State Constitution prohibits public money from being applied to religious instruction, worship or exercise, but would likely allow a secular program to be delivered in a sectarian setting.</p>	<p>religious instruction, worship or exercise. Under the Establishment Clause of the First Amendment to the U.S. Constitution, program must avoid excessive entanglement between church and state, suggesting environment be free of religious representations and activities.</p>	<p>E-2, E Materials and equipment must be free from religious representations. Contractors must not plan religious activities in the curriculum. This does not preclude children or families from sharing their traditions.</p>
Where services are delivered	<p>- Under Article 9, Section 2, Basic Education must be delivered through a general and uniform system of public schools.</p> <p>- This strongly suggests that the program would be required to serve otherwise eligible children in all geographic regions across the state.</p> <p>- This would allow school districts or Educational Service Districts to oversee programs locally.</p>	<p>- No constitutional restrictions. Legislature may allow services to be provided at any location that can meet the requirements.</p> <p>- Entitlement suggests program must serve children in all geographic locations across the state.</p>	<p>Services can be provided in any location that can meet the performance standards. Current classrooms are in public schools, colleges, community organizations, Head Start buildings, child care centers and faith-based facilities.</p>
<p>Program Standards - Education</p> <p>1. Hours</p> <p>2. Adult-child ratio, class size</p> <p>3. Curricula</p>	<p>- Except as noted above, the length of the school year, the hours of instruction, the adult-child ratio, and the curriculum are not dependent on whether the program is a “Basic Education” program or an “Entitlement” program.</p>	<p>School year</p> <p>Hours: ³⁵₁₇ Minimum 2.5 hours per day, minimum 320 classroom hours per year.</p> <p>Days/Weeks ³⁵₁₇ No less than 30 calendar weeks.</p> <p>Adult-Child Ratio/Class Size: ³⁵₁₇ 1:9, class max 20</p> <p>Curricula: ³⁵₁₇ Must be aligned with the state <i>Early Learning & Development Benchmarks</i>, develop-mentally &</p>	<p>School year</p> <p>Hours: ³⁵₁₇ Minimum 3.5 hours per day, 448 hours per year.</p> <p>Days/Weeks 128 days over 32 weeks (=448 hours) per year.</p> <p>Adult-Child Ratio/Class Size: ³⁵₁₇ Ratio and class size (15-20) vary by child age and for double-sessions. In similar range with ECEAP.</p> <p>Curricula: ³⁵₁₇ Must be based on scientifically valid research; age and developmentally</p>

A Program under “Basic Education”	An “Entitlement” Program	Current Guidelines ECEAP	Current Guidelines Head Start
		<p>individually appropriate and culturally relevant.</p> <p>The education standards also have requirements about the physical environment indoors & out, activities that must be included in the daily routine, adult-child interactions, child guidance, no expulsion policy, parent-teacher conferences and kindergarten transition activities.</p>	<p>appropriate.</p> <p>Other education standards on same topics as ECEAP.</p>
Program Standards –Family Partnership	- The program standards for partnering with families are not dependent on whether the program is a “Basic Education” program or an “Entitlement” program.	<p>Family partnership standards include:</p> <p>³⁵₁₇ Caseload limits</p> <p>³⁵₁₇ Requirements for strength-based family support.</p> <p>³⁵₁₇ Requirements for parent involvement, education and leadership development.</p>	Similar to ECEAP. Requires that some family support contact is via home visits.
Program Standards -Health and Safety	- The program standards for health and safety are not dependent on whether the program is a “Basic Education” program or an “Entitlement” program.	<p>Includes standards on:</p> <p>³⁵₁₇ health coordination services, policies and procedures, parent consent, recordkeeping, parent notifications, health screening, dental screening, medical exams, immunizations, medication management, first aid, infectious disease prevention, food sanitation, meals & snacks (nutrition), facility & equipment safety & transportation safety.</p> <p>³⁵₁₇</p>	Similar to ECEAP. Transportation safety requirements are more extensive and expensive than ECEAP (seat belts & aides on buses).
Program Standards - Other	- Except as noted above, other standards are not dependent on whether the program is a “Basic Education” program or an “Entitlement” program.	ECEAP Performance Standards also include: continuous improvement systems, community partnerships, health advisory groups, Parent Policy Council,	Similar range of topics to ECEAP.

A Program under “Basic Education”		An “Entitlement” Program	Current Guidelines ECEAP	Current Guidelines Head Start
			self-assessment, complaint management, non-discrimination, recruitment/outreach requirements, enrollment and attendance requirements, staff & volunteer training requirements.	
Staff Qualifications	- Staff qualifications are not dependent on whether the program is a “Basic Education” program or an “Entitlement” program. However, there may be a desire to have lead teachers “certificated” under a “Basic Education” program.	Lead teacher = AA or higher with 30 credits ECE, or teacher certification with early childhood endorsement. 15 hours inservice training per year. Assistant teacher= 12 ECE quarter credits or Child Development Associate credential (CDA) 5 years to complete PD plan, if not qualified at time of hire. Also, qualifications for family support staff, health and mental health consultants, and dietitians.	Lead teacher= must have AA by 2011.By 2013, 50% must have a BA in ECE or related. Programs can obtain a180 day waiver of qualifications for teachers. 15 hours inservice training per year. Assistant teachers = no current requirements. Must have CDA by 2013. No requirements for family support staff. By 2013, all education coordinators have a BA degree in ECE or related.	
Outcome Measures	- Outcome measures (e.g., common child assessment/inventory aligned with Benchmarks and WaKIDS, health outcomes, family outcomes) would not be dependent of whether the program is a “Basic Education” program or an “Entitlement” program.	Reported to DEL: Demographic, income, family and health data reported at enrollment, and (for some measures) at end-of-year. DECA assessment a minimum of twice a year. Assessment of physical and cognitive development a minimum of twice a year. Optional in 2010-11, family outcomes interviews.	Must use Child Outcomes Framework, analyze data from 8 developmental domains three times per year, and use it for program planning. Required to use CLASS tool to assess teachers and instruction.	
Allocation (per-child average)	- Under Basic Education, the per child allocation would likely be more closely tied? to costs of providing the program. However, it is possible that some of the costs would not be defined as being within the definition of Basic Education, such as family support efforts.	\$6662 per-child 8,024 slots	\$8,905 9,904 Region X slots Includes line item developmental and training funds.	
Phase-in Timeline	- In both cases, determined by the Legislature.	HB 2731 expands, starting with ECEAP standards and current funding, so that all eligible children are entitled to services	N/A	

A Program under "Basic Education"		An "Entitlement" Program	Current Guidelines ECEAP	Current Guidelines Head Start
			by 2018-19.	
Special Education	- Students would be eligible for the same Special Education services that are available to K-12 students	- Same as ECEAP and Head Start (see right)	<p>Child Screenings (developmental, vision, hearing, growth) required within 90 days, followed by referrals for further evaluation as indicated.</p> <p>All age-eligible children with an IEP are eligible. Enrollment is based on local prioritization. About 9% of ECEAP children have an IEP.</p>	<p>Child Screenings (developmental, vision, hearing, growth) required within 45 days, followed by referrals for further evaluation as indicated.</p> <p>10% of children enrolled must be children with disabilities, by first day of service.</p>

Appendix E

Summary of high-quality preschool programs in Washington, other states

The following chart compares the components of ECEAP and Head Start:

	ECEAP	Head Start
Date Founded	1985	1965
Funding Source	State	Federal
Average Funds per Slot to Grantees/ Contractors	\$6,662 per slot	<ul style="list-style-type: none"> ▮ Head Start: \$9,175 per slot ▮ American Indian/Alaska Native Head Start: \$8,423 per slot ▮ Migrant and Seasonal Head Start: \$8,409 per slot <p>These amounts include the dedicated staff training and development funds.</p>
Administration	Washington State Department of Early Learning: Eight staff design, contract, provide oversight, monitor, and provide training and technical assistance.	U.S. Department of Health and Human Services/Administration for Children and Families. Larger staff than ECEAP in relation to program size, including federal staff for design and distribution of funds; regional staff for oversight and monitoring; and contracted staff for training and technical assistance.
Available Slots for Children in 2010-11	8,024 slots	<ul style="list-style-type: none"> ▮ 9,887 in Head Start ▮ 1,075 in American Indian/Alaska Native Head Start ▮ 3,570 in Migrant/Seasonal Head Start
Ages of Children Served	3 and 4 years old by August 31 of the school year, with a priority for 4-year-olds.	3 to 5 years
Populations Served	<ul style="list-style-type: none"> ▮ Families up to 110 percent of federal poverty level. ▮ Families not income-eligible but impacted by development risk factors (e.g., delays) or environmental risk factors (e.g., child protective services involvement) up to 10 percent statewide. ▮ Children who qualify for the special education, regardless of income. ▮ Children in foster care or receiving TANF qualify based on income. ▮ Children from families with the lowest incomes, homeless, in foster care or with multiple risk factors are prioritized for the limited slots. 	<ul style="list-style-type: none"> ▮ Families up to 130 percent of federal poverty level (prioritizing those below 100 percent). ▮ Families not income-eligible but impacted by development risk factors (e.g., delays) or environmental risk factors (e.g., child protective services involvement) up to 10 percent per grantee. ▮ Children with special needs (required to be 10 percent of enrolled children). ▮ Children who are homeless, in foster care or child welfare, or receiving TANF, regardless of income.

	ECEAP	Head Start
Children with Specific Risk Factors – 2009-10	<ul style="list-style-type: none"> ▮ Foster Care: 3 percent ▮ Homeless: 7 percent ▮ Individualized Education Program (IEP) for children with disabilities: 9 percent 	<ul style="list-style-type: none"> ▮ Foster Care: Head Start 4 percent; AI/AN Head Start 10%; Migrant Head Start less than 1 percent ▮ Homeless: Head Start 6 percent; AI/AN Head Start 3 percent; Migrant Head Start 2 percent ▮ Individual Education Program (IEP) for children with disabilities: Head Start 13 percent; AI/AN Head Start 16 percent; Migrant Head Start 2 percent
Minimum Classroom Hours	Required: minimum of 320 preschool classroom hours per year.	Required: minimum of 448 preschool classroom hours per year.
Family Partnership	3 hours of family support and 3 hours of parent-teacher conferences per	At least 3 home visits per child per year.
Health Screening and Exam	Child receives a health and developmental screening, a well- child exam, and a dental screening within 90 days.	Child receives a health and developmental screening by the first 45 days of enrolling in the program, a well-child exam, and a dental screening within 90 days.
Grantees/ Contractors	The state contracts with local organizations to operate ECEAP sites. Contractors may be public or private nonsectarian organizations, including school districts, educational service districts, community and technical colleges, local governments, or nonprofit organizations.	The federal Office of Head Start provides grants to operate local Head Start and Early Head Start sites. Grantees may be any local public or nonprofit agency, including community-based and faith-based organizations, government agencies, tribal governments or for-profit agencies, pursuant to the requirements of the Head Start Act.
Teacher Qualifications	<p>Lead teachers must have one of the following:</p> <ul style="list-style-type: none"> ▮ Associate degree or higher with 30 quarter credits in early childhood education; or ▮ A Washington state teaching certificate with an endorsement in Early Childhood Education (PreK-3) or in Early Childhood Special Education. <p>Assistant teachers must have one of the following:</p> <ul style="list-style-type: none"> ▮ 12 quarter credits in early childhood education; or ▮ A child development associate (CDA) credential. 	<p>As of 10/1/2011, a teacher in each classroom must have one of the following:</p> <ul style="list-style-type: none"> ▮ Associate, bachelor's or advanced degree in early childhood education; or ▮ Associate, bachelor's or advanced degree in a related field and coursework equivalent to a major relating to early childhood education, with experience teaching preschool; or ▮ Bachelor's degree, admission to the Teach for America program, success in an early childhood content exam, and attendance at a Teach for America summer training institute that includes teaching preschool children. <p>Starting in 2013, 50 percent of the lead teachers in center-based Head Start agencies nationwide must have at least a bachelor's degree in early childhood education, or in a related field with coursework equivalent to a major in early childhood education.</p> <p>Assistant teachers: Starting in 2013, all teaching assistants in center-based Head Start agencies must:</p> <ul style="list-style-type: none"> ▮ Have a child development associate (CDA) credential; or ▮ Be enrolled in a CDA program to be completed in two years; or ▮ Have an associate or bachelor's degree in any area, or be enrolled in a program leading to this degree.

	ECEAP	Head Start
Staff Training and Development	<p>ECEAP lead teachers and family support specialists must attend at least 15 hours of professional development workshops or classes per year.</p> <p>All staff who work with children must have training in first aid and infant/child cardiopulmonary resuscitation; disease prevention; disaster planning; and preventing, identifying and reporting child abuse and neglect.</p> <p>DEL provides training and technical assistance to ECEAP and contractors support additional training with their regular per slot funds.</p>	<p>Teachers must attend at least 15 hours of professional development workshops or classes per year.</p> <p>All staff who work with children must have training in first aid and infant/child cardiopulmonary resuscitation; disease prevention; disaster planning; and preventing, identifying and reporting child abuse and neglect.</p> <p>Fifty percent of federal Head Start training and technical assistance funds are distributed directly to grantees for staff training and development.</p>
Early Learning Framework (Outcomes)	<p>ECEAP contractors must use an early learning framework to plan developmentally appropriate early childhood education. This framework informs the environment, daily routine, curriculum, adult-child interactions, guidance, screening and referral, assessment and individualization, and parent-teacher conferences. The curriculum must be aligned with the <i>Washington State Early Learning and Development Benchmarks</i>.</p>	<p>Head Start's Child Development and Early Learning Framework guides staff and parents in selecting curricula and assessment tools to support each child in making progress. The framework uses 11 areas of knowledge and development, or "domains" that are comparable to the domains and sub-domains of the <i>Washington State Early Learning and Development Benchmarks</i>.</p>

Programs	Quality Standards Checklist Total	% of 4-year-old population enrolled	% of 3-year-old population enrolled	State agency with administrative authority over state pre-K	Total program enrollment, Fall 2008
Oklahoma Pre-K Program	9	71%	0%	Oklahoma State Department of Education	36,042
Georgia Pre-K Program	8	53%	0%	Bright from the Start: Georgia Department of Early Care and Learning	78,310
West Virginia Pre-K Program	7	51%	9%	West Virginia Department of Education; West Virginia Head Start State Collaboration Office; West Virginia Department of Health and Human Resources	13,135
Arkansas Pre-K Program	9	44%	6%	Arkansas Department of Education; Arkansas Department of Human Services, Division of Child Care and Early Childhood Education	20,476
Maryland Pre-K Program	9	35%	1%	Maryland State Department of Education	26,821
Illinois Pre-K Program	9	29%	21%	Illinois State Board of Education	95,123
Kentucky Pre-K Program	8	28%	10%	Kentucky Department of Education	21,485
Iowa SVPP	8	25%	0%	Iowa Department of Education	9,676
Louisiana LA4	9	25%	0%	Louisiana Department of Education	15,205
North Carolina Pre-K Program	10	25%	0%	North Carolina Department of Public Instruction; Office of School Readiness	31,485
Washington Pre-K Program	9	7%	2%	Washington Department of Early Learning	8,120

Programs	Hours of operation per day	Days of operation per week	Minimum age for eligibility	Besides age, how is eligibility determined for individual children?	Income requirement
Oklahoma Pre-K Program	Part day, 2.5 instructional hours/day; Full day, 6 instructional hours/day	5 days/week	4 by Sept. 1	All children in districts offering the program, or in the entire state, may enroll	None
Georgia Pre-K Program	Full day, 6.5 hours/day	5 days/week	4 by Sept. 1	All children in districts offering the program, or in the entire state, may enroll	None
West Virginia Pre-K Program	Determined locally	Determined locally	4 by Sept. 1	Eligibility is determined by individual child or family characteristics	None
Arkansas Pre-K Program	Full day, 7 hours/day	5 days/week	3 by Sept. 15	Eligibility is determined by individual child or family characteristics	200% FPL
Maryland Pre-K Program	Part day, 2.5 hours/day; Full day, 6.5 hours/day	5 days/week	4 by Sept. 1	Eligibility is determined by individual child or family characteristics	Eligibility for free or reduced-price lunch (185% FPL)
Illinois Pre-K Program	Determined locally, at least 2.5 hours/day	5 days/week	3 by Sept. 1	Eligibility is determined by individual child or family characteristics	None
Kentucky Pre-K Program	Part day, 2.5 hours/day plus one meal	4 or 5 days/week	3 by Oct. 1	Eligibility is determined by individual child or family characteristics	150% FPL
Iowa SVPP	Part day, 10 hours/week	Determined locally	4 by Sept. 15	All children in the state may enroll	None
Louisiana LA4	Full day, 6 hours/day	5 days/week	4 by Sept. 30	All children in districts offering the program, or in the entire state, may enroll	Eligibility for free or reduced-price lunch (185% FPL)
North Carolina Pre-K Program	School day, 6-6.5 hours/day	5 days/week	4 by Aug. 31	Eligibility is determined by individual child or family characteristics	75% SMI or below
Washington Pre-K Program	Determined locally	Determined locally	3 by Aug. 31	Eligibility is determined by individual child or family characteristics	110% FPL

Programs	Risk factors besides income that can be used to determine eligibility	Sliding payment scale based on income?	Maximum class size	Staff-child ratio requirement
Oklahoma Pre-K Program	NA	No	4-year-olds, 20	4-year-olds, 1:10
Georgia Pre-K Program	NA	No	4-year-olds, 20	4-year-olds, 1:10
West Virginia Pre-K Program	Child disability or developmental delay	No	3-and 4-year-olds, 20	3-and 4-year-olds, 1:10
Arkansas Pre-K Program	Child disability or developmental delay, Low parental education level, History of abuse, neglect, or family violence, Non-English speaking family members, Parental substance abuse, Teen parent, Low birth weight or other child health risk, Child history of foster care	Yes, for children whose gross family income is 200-250% FPL	3-and 4-year-olds, 20	3-and 4-year-olds, 1:10
Maryland Pre-K Program	Homelessness or unstable housing, Other state-specified risk factors	No	4-year-olds, 20	4-year-olds, 1:10
Illinois Pre-K Program	Child disability or developmental delay, Low parental education level, History of abuse, neglect, or family violence, Homelessness or unstable housing, Non-English speaking family members, Parental substance abuse, Risk that child will not be ready for kindergarten, Teen parent, Low birth weight or other child health risk, Child history of foster care, Parental active military duty, Locally determined risk factors such as social isolation in very rural communities	No	3-and 4-year-olds, 20	3-and 4-year-olds, 1:10
Kentucky Pre-K Program	Child disability or developmental delay, Locally determined risk factors	Determined locally	3-and 4-year-olds, 20	3-and 4-year-olds, 1:10
Iowa SVPP	NA	Determined locally	4-year-olds, 20	4-year-olds, 1:10
Louisiana LA4	None	Yes, for children who do not meet the income requirement	4-year-olds, 20	4-year-olds, 1:10
North Carolina Pre-K Program	Child disability or developmental delay, Non-English speaking family members, Parental active military duty, Other state-specified risk factors such as a chronic health condition or educational/developmental delays	No	4-year-olds, 18	4-year-olds, 1:9
Washington Pre-K Program	Child disability or developmental delay, Low parental education level, History of abuse, neglect, or family violence, Homelessness or unstable housing, Non-English speaking family members, Parental substance abuse, Risk that child will not be ready for kindergarten, Teen parent, Low birth weight or other child health risk, Child history of foster care	No	3-and 4-year-olds, 20	3-and 4-year-olds, 1:9

Programs	Screening and referral requirements	Support services required for all programs	Minimum teacher degree requirement	Minimum assistant teacher degree requirement	Teachers on public school salary scale?
Oklahoma Pre-K Program	Vision, Hearing, Health, Developmental; Dental - determined locally	Parent involvement activities, Child health services, Nutrition information, Referral for social services, Transition to K activities, Other support services	BA/BS and ECE certification (public and nonpublic)	Must meet NCLB requirements (public and nonpublic)	Yes
Georgia Pre-K Program	Vision, Hearing, Dental	Parent involvement activities, Transition to K activities, Other support services determined locally	AA (public and nonpublic)	CDA (public and nonpublic)	No
West Virginia Pre-K Program	Vision, Hearing, Health, Developmental, Dental	Transition to K activities, Other support services determined locally	BA in ECE or pre-K special education (pre-K only programs); AA (blended programs)	HSD (public and nonpublic)	Yes (public); No (nonpublic)
Arkansas Pre-K Program	Vision, Hearing, Health, Developmental, Dental	Parenting support or training, Parent involvement activities, Child health services,	BA/BS in ECE or CD (public); BA/BS in ECE or CD (one for every	CDA (public and nonpublic)	Yes
		Nutrition information, Referral for social services, Transition to K activities	three classrooms) & AA in ECE or CD (other classrooms) (nonpublic)		
Maryland Pre-K Program	Vision, Hearing, Health, Lead screenings, Immunizations; Developmental, Dental - determined locally	Parenting support or training, Parent involvement activities, Child health services, Transition to K activities, Other support services	BA (public and nonpublic)	HSD (public and nonpublic)	Yes
Illinois Pre-K Program	Vision, Hearing, Health, Developmental	Parent education or job training, Parenting support or training, Parent involvement activities, Referral for social services, Transition to K activities	BA (public and nonpublic)	AA (public and nonpublic)	Yes
Kentucky Pre-K Program	Vision, Hearing, Health, Developmental	Parent education or job training, Parenting support or training, Parent involvement activities, Parent health services, Child health services, Nutrition information, Referral for social services, Transition to K activities	BA (public and nonpublic)	HSD (public); No minimum degree (nonpublic)	Yes (public); No (nonpublic)
Iowa SVPP	Vision, Hearing, Health, Developmental, Dental	Parenting support or training, Parent involvement activities, Child health services, Referral for social services	BA (public and nonpublic)	CDA or Iowa Paraeducator certificate (public and nonpublic)	Yes (public); No (nonpublic)
Louisiana LA4	Vision, Hearing, Health, Developmental; Dental, Mental Health -determined locally	Parent education or job training, Parenting support or training, Parent involvement activities, Child health services, Nutrition information, Referral for social services, Transition to K activities, GED and literacy training for parents	BA (public and nonpublic)	HSD (public and nonpublic)	Yes
North Carolina Pre-K Program	Vision, Hearing, Health, Developmental, Dental, Immunizations	Parent involvement activities, Transition to pre-K and K activities, Other support services	BA (public); AA and working toward BA and birth-K license within four years (nonpublic)	CDA or NCLB requirements (public), CDA (nonpublic)	Yes
Washington Pre-K Program	Vision, Hearing, Health, Developmental, Dental, Height, Weight	Parenting support or training, Parent involvement activities, Child health services, Nutrition information, Referral for social services, Transition to K activities, Other support services	AA or BA (public and nonpublic)	CDA or 12 quarter credits ECE (public and nonpublic)	No

Programs	Total 2008-2009 spending	School funding or state aid formula?	State/All spending per child	Agencies eligible to receive funding directly	How much of total spending came from...	State funding sources and amounts
Oklahoma Pre-K Program	\$283,048,740	Yes	\$4,084/ \$7,853	Public schools	State, \$147,185,345; Federal, \$33,965,849; Non-required local, \$101,897,546	State aid formula, \$147,185,345
Georgia Pre-K Program	\$331,955,553	No	\$4,234/ \$4,239	Public schools, Head Start, Private CC, Faith-based centers, Technical schools, Universities, Military bases, Charter schools	State, \$331,542,255; Federal, \$413,298	Lottery, \$331,542,255
West Virginia Pre-K Program	\$114,835,307	Yes	\$5,264/ \$8,743	Public schools	State, \$69,147,853; Federal, \$43,241,948; Non-required local, \$2,445,506	State aid funding formula, \$69,147,853
Arkansas Pre-K Program	\$171,973,151	No	\$5,421/ \$8,399	Public schools, Head Start, Private CC, Faith-based centers, Family CC	State, \$103,500,000; TANF, \$7,500,000; Required local, \$60,973,151	General revenue funds, \$103,500,000
Maryland Pre-K Program	\$222,730,841	Yes	\$3,765/ \$8,304	Public schools	State, \$100,974,791; Federal, \$9,323,645; Required local, \$112,432,405	General revenue, \$100,974,791
Illinois Pre-K Program	\$327,024,460	No	\$3,438	Public schools, Head Start, Private CC, Faith-based centers, Family CC, University-based and community college-based higher education programs	State, \$327,024,460	General revenue funds, \$327,024,460
Kentucky Pre-K Program	\$106,158,791	Yes	\$3,497/ \$4,941	Public schools	State, \$75,127,700; Federal, \$16,439,280; Non-required local, \$14,591,811	State-funded preschool allocations from legislature, \$75,127,700
Iowa SVPP	\$28,491,374	Yes	\$2,945	Public schools	State, \$28,491,374	General revenue funds, \$11,687,936; Preschool funding formula, \$16,803,438
Louisiana LA4	\$85,500,000	No	\$5,492/ \$5,623	Public schools, Approved charter schools	State, \$83,500,000; Non-required local, \$2,000,000	State general funds, \$83,500,000
North Carolina Pre-K Program	\$242,831,570	No	\$5,414/ \$7,713	Public schools, Head Start, Public-private agencies (local Smart Start partnerships), Other non-profit organizations	State, \$170,471,908; Federal, \$46,898,616; Non-required local, \$25,461,046	Lottery, \$84,635,709; General fund, \$85,836,199
Washington Pre-K Program	\$55,942,961	No	\$6,890	Public schools, Head Start, Private CC, Local governments, Colleges/ universities, Educational Service Districts	State, \$55,942,961	State general fund, \$55,942,961

Source: Barnett, W. S., Epstein, D. J., Friedman, A. H., Sansanelli, R. A., & Hustedt, J. T. (2009). *The State of Preschool 2009: State Preschool Yearbook*. New Brunswick, NJ: National Institute for Early Education Research, Rutgers University

